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Air Pollution Regulations in State Implementation Plans: Massachusetts

Abcor Inc, Wilmington, MA Walden Div

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Office of Air Quality
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Research Triangle Park NC 27711

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Air Pollution Regulations in State Implementation Plans:

Massachusetts

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This document has been produced in compliance with Section 110(h)(1) of the Clean Air Act amendments of 1977. The Federally enforceable regulations contained in the State Implementation Plans (SIPs) have been compiled for all 56 States and territories (with the exception of the Northern Mariana Islands). They consist of both the Federally approved State and/or local air quality regulations as indicated in the Federal Register and the Federally promulgated regulations for the State, as indicated in the Federal Register. Regulations which fall into one of the above categories as of January 1, 1978, have been incorporated. As mandated by Congress, this document will be updated annually. State and/or local air quality regulations which have not been Federally approved as of January 1, 1978, are not included here; omission of these regulations from this document in no way affects the ability of the respective Federal, State, or local agencies to enforce such regulations.

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Massachusetts

by

Walden Division of Abcor, Inc.
Wilmington, Massachusetts

Contract No. 68-02-2890

EPA Project Officer: Bob Schell

Prepared for

U.S. ENVIRONMENTAL PROTECTION AGENCY
Office of Air, Noise, and Radiation
Office of Air Quality Planning and Standards
Research Triangle Park, North Carolina 27711

August 1978

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Publication No. EPA-450/3-78-071

INTRODUCTION

This document has been produced in compliance with Section 110(h)(1) of the Clean Air Act Amendments of 1977. The Federally enforceable regulations contained in the State Implementation Plans (SIPs) have been compiled for all 56 States and territories (with the exception of the Northern Mariana Islands). They consist of both the Federally approved State and/or local air quality regulations as indicated in the Federal Register and the Federally promulgated regulations for the State, as indicated in the Federal Register. Regulations which fall into one of the above categories as of January 1, 1978, have been incorporated. As mandated by Congress, this document will be updated annually. State and/or local air quality regulations which have not been Federally approved as of January 1, 1978, are not included here; omission of these regulations from this document in no way affects the ability of the respective Federal, State, or local agencies to enforce such regulations.

There have been recent changes in the Federal enforceability of parking management regulations and indirect source regulations. The October, 1977, appropriation bill for EPA prohibited Federal enforcement of parking management regulations in the absence of specific Federal authorizing legislation. Federally promulgated parking management regulations have, therefore, been suspended indefinitely. Pursuant to the 1977 Clean Air Act Amendments, indirect source regulations may not be required for the approval of a given SIP. Consequently, any State adopted indirect source regulations may be suspended or revoked; State adopted indirect source regulations contained in an applicable SIP are Federally enforceable. More importantly, EPA may only promulgate indirect source review regulations which are specific to Federally funded, operated, or owned facilities or projects. Therefore, the Federally promulgated indirect source regulations appearing in this document are not enforceable by EPA except as they relate to Federal facilities.

Since State air quality regulations vary widely in their organization, content, and language, a standardized subject index is utilized in this document. Index listings consist of both contaminant and activity oriented categories to facilitate usage. For example, for regulations which apply to copper smelters, one might look under sulfur compounds (50.2), particulate matter process weight (50.1.1), or copper smelters (51.15). Federal regulations pertaining to a given State immediately follow the approved State and local regulations.

Additionally, a summary sheet of the information included in each comprehensive document is presented prior to the regulatory text to allow one to quickly assess the contents of the document. Specifically, the summary sheets contain the date of submittal to EPA of each revision to the SIP and the date of the Federal Register in which the revision was either approved or disapproved by EPA. Finally, a brief description or reference of the regulation which was submitted is also included.

This document is not intended to provide a tool for determining the enforceability of any given regulation. As stated above, it is intended to provide a comprehensive compilation of those regulations which are incorporated directly or by reference into Title 40, Part 52, of the Code of Federal Regulations. Consequently, the exclusion of a Federally approved regulation from this document does not diminish the enforceability of the regulation. Similarly, the inclusion of a given regulation (for example, regulations governing pollutants, such as odors, for which there is no national ambient air quality standards) in this document does not, in itself, render the regulation enforceable.

SUMMARY SHEET
OF
EPA-APPROVED REGULATION CHANGES

MASSACHUSETTS

Submittal Date	Approved Date	Description
2/22/72	5/31/72	Emergency Episode Plan: Supplement
8/28/72	10/28/72	Definitions, Regs. 2.1, 2.5, 4.2, 6.1.2, 6.3.1, 8.1.6, 9.1, 15
11/14/74	10/28/76	Reg. 50
6/25/76	2/15/77	Reg. 5.1.2(e) for CMAPCD
6/25/76	5/19/77	Reg. 5.1 w/provisions for Fitchburg
7/22/76	2/1/77	Reg. 5.1.2(d) for PVAPCD
12/30/76	7/12/77	Reg. 5.1.2(c) for MVAPCD
12/30/76	9/2/77	Reg. 5.1.2(f) for SEMAPCD
4/1/77	8/22/77	Reg. 5 for MBAPCD

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52.1128	Transportation and Land Use Control
52.1134 - 52.1145	Transportation Control Related Regulations
52.1146	Regulation on Architectural Coatings
52.1147	Federal Compliance Schedule
52.1148 - 52.1155	Transportation Related Regulations
52.1156	Regulation for Public Availability of Emissions Data
52.1160 - 52.1164	Transportation Control Related Regulations
52.1165	Prevention of Significant Deterioration

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THE COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF PUBLIC HEALTH
DIVISION OF ENVIRONMENTAL HEALTH
BUREAU OF AIR QUALITY CONTROL

Room 320
600 Washington Street
Boston, Massachusetts 02111

REGULATIONS
AS AMENDED
FOR
THE CONTROL OF AIR POLLUTION
IN THE
BERKSHIRE AIR POLLUTION CONTROL DISTRICT
CENTRAL MASSACHUSETTS AIR POLLUTION CONTROL DISTRICT
MERRIMACK VALLEY AIR POLLUTION CONTROL DISTRICT
METROPOLITAN BOSTON AIR POLLUTION CONTROL DISTRICT
PIONEER VALLEY AIR POLLUTION CONTROL DISTRICT
SOUTHEASTERN MASSACHUSETTS AIR POLLUTION CONTROL DISTRICT

MASSACHUSETTS

EPA - APPROVED REGS. & PROMULGATED T.C.P. REGS.

Adopted under the provisions of Section 142D, Chapter 11, General Laws, as inserted by Chapter 836 of the Acts of 1969

Adopted to become effective June 1, 1972
and
Amended to become effective September 1, 1972

PREAMBLE

The purpose of these regulations is to prevent the occurrence of conditions of air pollution where such do not exist and to facilitate the abatement of conditions of air pollution where and when such occur. They are designed to attain, preserve, and conserve the highest possible quality of the ambient air compatible with needs of society.

(1.0) DEFINITIONS

When used in these regulations or in communications, notices or orders relative thereto, the following words and phrases shall have the meanings ascribed to them below:

1. AEROSOL means a system of solid or liquid particles dispersed in a gas.
2. AIR means atmosphere.
3. AIR CONTAMINANT means any substance or man-made physical phenomenon in the ambient air space and includes, but is not limited to, dust, flyash, gas, fume, mist, odor, smoke, vapor, pollen, microorganism, radioactive material, radiation, heat, sound, any combination thereof, or any decay or reaction product thereof.
4. AIR CONTAMINATION SOURCE means any place at or from which any air contaminant is emitted to the ambient air space.
5. AIR POLLUTION means the presence in the ambient air space of one or more air contaminants or combinations thereof in such concentrations and of such duration as to:
    a. cause a nuisance;
    b. be injurious, or be on the basis of current information, potentially injurious to human or animal life, to vegetation, or to property; or
    c. unreasonably interfere with the comfortable enjoyment of life and property or the conduct of business.
6. AMBIENT AIR SPACE means the unconfined space occupied by the atmosphere above the geographical area of the District.
7. B.t.u. means British thermal unit, the amount of heat necessary to raise the temperature of one pound of water from 39°F to 40°F.
8. CHART means the Ringelmann Scale for grading the density of smoke, as published by the United States Bureau of Mines and as referred to in the Bureau of Mines Information Circular No. 8333 or any smoke inspection guide approved by the Department.
9. DEPARTMENT means the Department of Public Health.

10. DISTRICT means the Berkshire (BAPCD), Central Massachusetts (CMAPCD), Merrimack Valley (MVAPCD), Metropolitan Boston (MBAPCD), Pioneer Valley (PVAPCD), and Southeastern Massachusetts (SMAPCD) Air Pollution Control Districts.

11. DUST means finely divided solid matter.

12. EMISSION means any discharge or release of an air contaminant to the ambient air space.

13. FACILITY means any installation or establishment and equipment associated therewith capable of emissions.

14. FLYASH means the aerosolized solid component of burned or partially burned fuel. "Soot" and "cinders" are included within the meaning of the term "flyash."

15. FOSSIL FUEL UTILIZATION FACILITY means any furnace(s), fuel burning equipment, boiler(s), or any appurtenance thereto used for the burning of fossil fuels, for the emission of products of combustion, or in connection with any process which generates heat and may emit products of combustion, but does not mean a motor vehicle.

16. FUEL means any solid, liquid, or gaseous material such as, but not limited to, coal, gasoline, manufactured gas, natural gas, oil, or wood, used for the production of heat or power by burning.

    - DISTILLATE FUEL OIL means No. 1 or No. 2 fuel oil. Distillate fuel oil having a sulfur content of 0.17 pounds of sulfur per million B.t.u. heat release potential is approximately equal to distillate fuel oil having a sulfur content of 0.3 percent, by weight.

    - FOSSIL FUEL means coal, coke, distillate oil, residual oil, or natural or manufactured gas.

    - RESIDUAL FUEL OIL means No. 4, No. 5, or No. 6 fuel oil. Residual fuel oil having a sulfur content of 0.55 and 0.28 pounds of sulfur per million B.t.u. heat release potential is approximately equal to residual fuel oil having a sulfur content of 1.0 and 0.5 percent, by weight, respectively.

17. FUEL ADDITIVE means any substance which is not a natural component of the fuel to which it may be added or in conjunction with which it may be used.

18. FUME means any aerosol resulting from chemical reaction, distillation, or sublimation.

19. FURNACE means any enclosed structure designed to produce heat from the burning of a fuel therein, but does not mean open hearths, incinerators, stoves for cooking, fireplaces, or equipment for the melting, reclaiming, or refining of metals or maple syrup.

20. GAS means the state of matter having neither independent shape nor independent volume but having a tendency to expand and diffuse infinitely.

21. HAND-FIRED FURNACE means any furnace in which fuel is manually placed directly on the hot fuel bed but does not mean stoves or other equipment used for the cooking of food, or fireplaces.

22. INCINERATOR means any article, machine, equipment, contrivance, structure, or part of a structure, used primarily for the reduction of combustible wastes by burning.

22.1 COMMERCIAL OR INDUSTRIAL INCINERATOR means any incinerator operated by any commercial or industrial establishment primarily for the reduction of refuse generated by said establishment.

22.2 DOMESTIC INCINERATOR means any incinerator used primarily for the reduction of domestic refuse generated on the premises.

22.3 FLUE-FED INCINERATOR means any incinerator provided with a single flue which serves as both the charging chute and the duct for conduction of the products of combustion to the ambient air space.

22.4 MODULAR INCINERATOR means any incinerator of a standard design and identifiable by the manufacturer's markings.

22.5 MUNICIPAL INCINERATOR means any incinerator operated by any person primarily for the reduction of refuse generated by the public at large.

22.6 SPECIAL INCINERATOR means any incinerator designed for a special purpose such as but not limited to burning of biological, pathological, or toxicological wastes or for a specific facility.

23. MAJOR SOURCES for the purposes of Regulation 2.5 is defined as any fossil fuel utilization facility having an energy input capacity rated by the Department as greater than 30,000,000 B.t.u's per hour; any incinerator having a charging rate greater than 1000 lbs. per hour, any asphalt batching plant, ferrous or non-ferrous foundry, or aggregate manufacturing or processing plant.

24. MOTOR VEHICLE means any equipment or mechanical device propelled primarily on land by power other than muscular power but does not mean railroad and railway engines and cars, vehicles operated by the system known as trolley motor or trackless trolley, or devices used for domestic purposes.

25. MIST means any liquid aerosol formed by the condensation of vapor or by the atomization of liquids.

26. NOISE means sound of sufficient intensity and/or duration as to cause or contribute to a condition of air pollution.

27. ODOR means that property of gaseous, liquid, or solid materials that elicits a physiologic response by the human sense of smell.

28. OPACITY means that characteristic of matter which renders it capable of interfering with the transmissions of rays of light and causes a degree of obscuration of an observer's view.

29. OPEN BURNING means burning under such conditions that the products of combustion are emitted directly to the ambient air space and are not conducted thereto through a stack, chimney, duct, or pipe. Open burning includes above or underground smoldering fires.

30. ORGANIC MATERIAL means any chemical compound of carbon excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbonates, metallic carbides and ammonium carbonates.

31. PARTICULATE means any material that exists in a finely divided form as a liquid or solid at ambient air temperatures, humidity, and pressures.

32. PERSON means any individual, partnership, association, firm, syndicate, company, trust, corporation, department, authority, bureau, agency, political subdivision of the Commonwealth, law enforcement agency, fire fighting agency, or any other entity recognized by law as the subject of rights and duties.

33. PROCESS WEIGHT PER HOUR means the total weight of all materials introduced into any specific process that may cause any emissions of particulate matter. Solid fuels charged are considered as part of the process weight, but liquid and gaseous fuels and combustion air are not. For a cyclical or batch operation, the process weight per hour is derived by dividing the total process weight by the number of hours in one complete operation from the beginning of any given process to the completion thereof, excluding any time during which the equipment is idle. For a continuous operation, the process weight per hour is derived by dividing the process weight for a typical period of time.

34. RADIATION means any ionizing or non-ionizing electromagnetic or particulate radiation or any sonic, infrasonic, or ultrasonic wave.

35. RADIOACTIVE MATERIAL means any material or materials in combination (solid, liquid, or gaseous) which emit(s) ionizing radiation.

36. REFUSE means any animal, vegetable, or mineral solid, liquid, or gaseous waste. It includes, but is not limited to, rubbish, garbage, ashes, construction wastes, industrial wastes, commercial wastes, demolition wastes, agricultural wastes, abandoned vehicles, and any unwanted or discarded material.

37. REGISTRY means the Registry of Motor Vehicles.

38. SMOKE means the visible aerosol, which may contain flyash, resulting from combustion of materials but does not mean condensed water vapor.

39. SOUND means the phenomenon of alternate increases and decreases in the pressure of the atmosphere, caused by radiations having a frequency range of from twenty (20) to twenty thousand (20,000) cycles per second, that elicits a physiologic response by the human sense of hearing.

40. STANDARD OPERATING PROCEDURE (S.O.P.) means the specific procedure for operation of, and which minimizes the emission from, an air contamination source.

41. SUBSTANTIAL RECONSTRUCTION means any physical change in, or change in the method of operation of a facility or its appurtenances which changes the amount of emissions from such facility.

42. VAPOR means the gaseous state of certain substances that can exist in equilibrium with their solid or liquid states under standard conditions.

43. EXISTING FACILITY means any facility that is in operation on or before June 1, 1972, or any proposed facility of which the construction, substantial reconstruction or alteration of which has been approved in writing by the Department on or before June 1, 1972. All facilities as specified in the Federal Register, Volume 36, No. 247, December 23, 1971, the construction or modification of which was initiated after August 17, 1971 shall not be defined as existing facilities.

(2.0) REGULATION 1. General Regulations to Prevent Air Pollution

1.1 No person owning, leasing, or controlling the operation of any air contamination source shall willfully, negligently, or through failure to provide necessary equipment or to take necessary precautions, permit any emission from said air contamination source or sources of such quantities of air contaminants which will cause, by themselves or in conjunction with other air contaminants, a condition of air pollution.

(3.0) (10.0) (51.21) REGULATION 2. Plans Approval and Emission Limitations

2.1 General

2.1.1 No person shall construct, substantially reconstruct or alter any facility regulated herein that may cause or contribute to a condition of air pollution unless the plans, specifications, proposed Standard Operating Procedure, and the Proposed Maintenance Procedure for such facility have been submitted to the Department for approval and approval has been granted in writing.

(a) Application for approval to construct, substantially reconstruct, or alter any facility shall be made on forms furnished by the Department, or by other means prescribed by the Department.
(b) Each application shall be signed by the applicant.
(c) Each application shall be accompanied by site information, plans, descriptions, specifications, and drawings showing the design of the facility, the nature and amount of emissions, and the manner in which it will be operated and controlled.
(d) Any additional information, plans, specifications, evidence of documentation that the Department may require shall be furnished upon request.
(e) All plans and specifications submitted to the Department shall bear the seal and signature of a professional engineer registered in the Commonwealth under the provisions of Chapter 112 of the General Laws as amended. Such approval shall not affect the responsibility of the owner or operator to comply with cther applicable regulations.

2.1.2 No approval will be issued in instances where:

(a) Emissions from such a facility would result in air quality exceeding the Massachusetts or National Ambient Air Quality Standards, or
(b) Emissions from such facility would exceed the applicable regulatory emission limitations as specified in Regulation 2.5, or
(c) Emissions from such a facility would result in violation of the provisions of any of these Regulations.

2.1.3 The Department will act within 60 days on an application and will notify the applicant in writing of its approval, conditional approval, or denial of the application. The Department will set forth its reasons for any denial. The Department may impose any reasonable condition upon an approval, including conditions requiring the facility to be provided with:

(a) Sampling ports of a size, number, and location as the Department may require,
(b) Safe Access to each port,
(c) Instrumentation to monitor and record emission data, and
(d) Any other sampling and testing facility.

2.1.4 The Department may cancel an approval if the construction is not begun within 2 years from the date of issuance or if, during the construction, work is suspended for 1 year.

2.2 Department Participation. The Department, in its evaluation for approval of the design for construction, reconstruction, alteration, the Standard Operating Procedure, and proposed maintenance procedure for any facility, will limit itself to consideration of such matters which, in its opinion, may cause or contribute to a condition of air pollution. The Department will consult upon request concerning design criteria and design of any facility prior to submittal of plans.

2.3 Application. Regulation 2 in its entirety shall apply to: fossil fuel utilization facilities having energy input capacities greater than three million (3,000,000) B.t.u.'s per hour, incinerators, industrial facilities such as asphalt batching plants, foundries, chemical products manufacturing plants, petroleum products manufacturing plants, aggregate manufacturing plants, food and food products plants, wood products plants, dry cleaning establishments, paint and varnish manufacturing plants, paper manufacturing plants, leather manufacturing plants, concrete manufacturing plants, metal coating and treating plants, and such other facilities as the Department may require.

2.5 Compliance with Emission Limitations

2.5.0 Persons owning, leasing, or controlling the operation of any facility described in Regulation 2.3 (field of application) shall achieve full compliance, by January 31, 1974, with the regulatory emission limitation applicable to such facility or take the actions shown below:

(a) Justify to the Department that additional time is needed and
(b) Submit a proposed plan and compliance schedule for said facility to the Department not later than December 31, 1972.

Justifications for additional time to comply with regulatory emission limitations, and the submittal of proposed plans and compliance schedules are subject to review and approval by the Department and must provide for compliance with applicable regulatory emission limitations as expeditiously as practicable, but in no case later than July 31, 1975. All compliance schedules shall provide for periodic increments of progress including submittal of engineering plans, ordering of equipment after plan approval, installation date after confirmation of order by the manufacturer and the date by which the applicable regulatory emission limitation will be achieved after equipment is in satisfactory operation.

Note: All approved compliance schedules must be transmitted to E.P.A. through this Department. Failure of any person to submit compliance schedules in accordance with the above dates may result in State and Federal legal enforcement actions.

For purposes of Regulation 2.5.1, 2.5.2, and 2.5.3 the following cities and towns are defined as critical areas of concern:

Berkshire Air Pollution Control District - Adams, Dalton, Lee, North Adams, Pittsfield

Central Massachusetts Air Pollution Control District - Athol, Auburn, Boylston, Fitchburg, Gardner, Grafton, Holden, Leicester, Leominster, Millbury, Shrewsbury, Southbridge, Webster, West Boylston, and Worcester

Merrimack Valley Air Pollution Control District - Haverhill, Lawrence, Lowell, and Newburyport

Metropolitan Boston Air Pollution Control District - Arlington, Belmont, Boston, Braintree, Brookline, Cambridge, Canton, Chelsea, Dedham, Everett, Lynn, Malden, Medford, Melrose, Milton, Needham, Newton, Peabody, Quincy, Revere, Salem, Saugus, Somerville, Stoneham, Wakefield, Waltham, Watertown, Weymouth, Winchester, Winthrop, and Woburn

Pioneer Valley Air Pollution Control District - Amherst, Chicopee, East Hampton, East Longmeadow, Greenfield, Hadley, Holyoke, Longmeadow, Ludlow, Northampton, Orange, Palmer, Springfield, Ware, Westfield, and West Springfield

Southeastern Massachusetts Air Pollution Control District - Attleboro, Fall River, New Bedford, Sandwich, Somerset, and Taunton

2.5.1 No person owning, leasing, or controlling the operation of any fossil fuel utilization facility shall cause, suffer, allow, or permit emissions therefrom in excess of those emission limitations set forth in the following tables and within the time schedule specified in Regulation 2.5.

EMISSIONS LIMITATIONS

Fossil Fuel Utilization Facilities

Particulates

Facility Size Million B.t.u./hr. Input	Emission Limitation lbs. (particulate)/million B.t.u.		
	New	Existing	Existing (critical area of concern)
3 - 250	0.10	0.15	0.12
Greater than 250	0.05*	0.15	0.12

Any emission testing to be compared to these limitations must be conducted under isokinetic sampling conditions and in accordance with method 5, as specified in the Federal Register, Volume 36, No. 247, December 23, 1971, or by another method correlated to the above method to the satisfaction of the Department.

* An emission rate of 0.10 lbs. (particulate) per million B.t.u. will be allowed if a person is using equipment designed to control or reduce sulfur dioxide at the same time or in the same process so that the provisions of Regulation No. 5 are satisfied.

Oxides of Nitrogen

Facility Size Million B.t.u./hr. Input	Emission Limitation Pounds/million B.t.u.
	New
Greater than 250	0.3

Any emissions testing to be compared to this limitation must be conducted in accordance with method 7, as specified in the Federal Register, Volume 36, No. 247, December 23, 1971, or by another method which has been correlated to the above method to the satisfaction of the Department. This emission limitation shall not apply to gas turbine or diesel engines.

2.5.2. No person owning, leasing, or controlling the operation of any industrial facility shall cause, suffer, allow, or permit emissions therefrom in excess of those emission limitations set forth in the following tables and within the time schedules specified in Regulation 2.5.

EMISSIONS LIMITATIONS

Industrial Facilities

Particulates

Emission Limitation
lbs. (particulate)/1000 lb. flue gas

	New	Existing	Existing (critical area of concern)
Ferrous Cupola Foundries			
Production	0.10	0.25	0.10
Jobbing	0.40	0.40	0.40
Non-Ferrous Foundries	0.10	0.15	0.10

Differentiation Between Jobbing and Production Foundries

Cupolas in a jobbing foundry will be run intermittently for just long enough at one time to pour the molds that are ready on the foundry floor job by job.

Production foundry cupolas will melt continuously to pour a succession of molds that are constantly being prepared to receive a continuous flow of iron.

Asphalt Batching Plants

Emission Limitation
lbs. (particulate)/hr.

Production Weight Tons/Hour	New	Existing	Existing (critical area of concern)
100	4.5	9.0	4.5
150	6.7	13.4	6.7
200	9.0	18.0	9.0
250	11.3	22.6	11.3
300	14.2	28.3	14.2
350	15.9	31.3	15.9
400	18.1	36.2	18.1

Other Industrial Sources

Process Weight Pounds/Hour	Emission Limitation lbs. (particulate)/hr.		
	New	Existing	Existing (critical area of concern)
50	0.12	0.24	0.12
100	0.23	0.46	0.23
150	0.33	0.66	0.33
200	0.42	0.85	0.42
250	0.51	1.03	0.51
300	0.60	1.20	0.60
350	0.67	1.35	0.67
400	0.75	1.50	0.75
450	0.82	1.63	0.82
500	0.89	1.77	0.89
550	0.95	1.89	0.95
600	1.01	2.01	1.01
650	1.06	2.12	1.06
700	1.12	2.24	1.12
750	1.17	2.34	1.17
800	1.22	2.43	1.22
850	1.27	2.53	1.27
900	1.31	2.62	1.31
950	1.36	2.72	1.36
1000	1.40	2.80	1.40
1100	1.49	2.97	1.49
1200	1.56	3.12	1.56
1300	1.63	3.26	1.63
1400	1.70	3.40	1.70
1500	1.77	3.54	1.77
1600	1.83	3.66	1.83
1700	1.89	3.79	1.89
1800	1.96	3.91	1.96
1900	2.02	4.03	2.02
2000	2.07	4.14	2.07
2100	2.12	4.24	2.12
2200	2.17	4.34	2.17
2300	2.22	4.44	2.22
2400	2.28	4.55	2.28
2500	2.32	4.64	2.32
2600	2.37	4.74	2.37
2700	2.42	4.84	2.42
2800	2.46	4.92	2.46
2900	2.51	5.02	2.51
3000	2.55	5.10	2.55

Other Industrial Sources (Continued)

Process Weight Pounds/Hour	Emission Limitation lbs. (particulate)/hr.		
	New	Existing	Existing (critical area of concern)
3100	2.59	5.18	2.59
3200	2.64	5.27	2.64
3300	2.68	5.36	2.68
3400	2.72	5.44	2.72
3500	2.76	5.52	2.76
3600	2.81	5.61	2.81
3700	2.85	5.69	2.85
3800	2.89	5.77	2.89
3900	2.93	5.85	2.93
4000	2.97	5.93	2.97
4100	3.01	6.01	3.01
4200	3.04	6.08	3.04
4300	3.08	6.15	3.08
4400	3.11	6.22	3.11
4500	3.15	6.30	3.15
4600	3.19	6.37	3.19
4700	3.23	6.45	3.23
4800	3.26	6.52	3.26
4900	3.30	6.60	3.30
5000	3.39	6.67	3.39
5500	3.52	7.03	3.52
6000	3.69	7.37	3.69
6500	3.86	7.71	3.86
7000	4.03	8.05	4.03
7500	4.20	8.39	4.20
8000	4.36	8.71	4.36
8500	4.52	9.03	4.52
9000	4.68	9.36	4.68
9500	4.84	9.67	4.84
10000	5.0	10.0	5.0
11000	5.32	10.63	5.32
12000	5.64	11.28	5.64
13000	5.99	11.89	5.99
14000	6.25	12.50	6.25
15000	6.57	13.13	6.57
16000	6.87	13.74	6.87
17000	7.18	14.36	7.18
18000	7.49	14.97	7.49
19000	7.79	15.58	7.79
20000	8.10	16.19	8.10
30000	11.11	22.22	11.11
40000	14.15	28.3	14.15
50000	17.15	34.3	17.15
60000	20.0	40.0	20.0

Other Industrial Sources

When process weight exceeds 60,000 pounds per hour, emission rate should be determined as follows:

Existing sources	$E = 55P^{0.11} - 40$
New sources	$E = 1/2\ (55P^{0.11}\ \ 40)$
Existing sources in critical areas of concern	$E = 1/2\ (55P^{0.11} - 40)$

P = Process weight in tons per hour
E = Emission rate in pounds per hour

Examples of emission limitations for process weight rates greater than 60,000 pounds per hour are shown on the following table.

Process Weight	New	Existing	Existing (critical area of concern)
70000	20.7	41.3	20.7
80000	21.3	42.5	21.3
90000	21.8	43.6	21.8
100000	22.8	45.5	22.8
200000	25.7	51.3	25.7
300000	27.7	55.4	27.7
400000	29.3	58.5	29.3
500000	30.5	61.0	30.5
600000	31.5	63.0	31.5
700000	32.4	64.8	32.4
800000	33.2	66.3	33.2
900000	33.9	67.7	33.9
1000000	34.5	68.9	34.5

Any emissions testing to be compared to these limitations must be conducted under isokinetic sampling conditions and in accordance with method 5, as specified in the Federal Register, Volume 36, No. 247, December 23, 1971 or by another method which has been correlated to the above method to the satisfaction of the Department of Public Health.

EMISSION LIMITATIONS

Industrial Facilities

Gases

Sulfur Dioxide	Emission Limitation
Contact Sulfuric Acid Plants	
New	4 lbs/ton acid produced
Existing	27 lbs/ton acid produced
Existing (critical area of concern)	27 lbs/ton acid produced
Other Sources	
New	25 lbs/hour
Existing	25 lbs/hour
Existing (critical area of concern)	25 lbs/hour

At no time shall emission concentration exceed 500 ppm.

Nitrogen Dioxide

All Sources	
New	10 lbs/hour
Existing	20 lbs/hour
Existing (critical area of concern)	10 lbs/hour

At no time shall emission concentration exceed 250 ppm.

2.5.3. No person owning, leasing, or controlling the operation of any incinerator facility shall cause, suffer, allow or permit emissions therefrom in excess of those emission limitations set forth in the following tables and within the time schedules specified in Regulation 2.5.

EMISSIONS LIMITATIONS

Incinerators

Particulates

Incinerator Type	Emission Limitation (grains/SCF @ 12% CO_2)		
	New	Existing	Existing (critical area of concern)
Municipal	.05	.10	.10
Commercial, industrial, residential	.10	.10	.10

Any emissions testing to be compared to these limitations must be conducted under isokinetic sampling conditions and in accordance with method 5 as specified in the Federal Register, Volume 36, No. 247, December 23, 1971, or by another method which has been correlated to the above method to the satisfaction of the Department of Public Health.

2.5.4 Organic Material

2.5.4.1 Any person owning, leasing, or controlling a stationary tank reservoir with a capacity of greater than 40,000 gallons in which organic material having a true vapor pressure in the range of 1.5 to 11 psi inclusive is placed, stored, or held shall equip such a stationary tank reservoir with one of the following emission control devices or equal, within the time schedule specified in Regulation 2.5:

(a) A floating roof cover consisting of a pontoon type, double deck type roof, or internal floating roof resting on the surface of the liquid contents equipped with a closure seal, or seals, to close the space between the roof edge and tank wall and, in addition, all tank gauging and sampling devices shall be gas-tight except when in use, or

(b) A pressure tank system maintaining a pressure at all times so as to prevent organic material loss to the atmosphere or

(c) A vapor recovery system capable of collecting the organic materials emitted from the tank and of disposing of these materials without release to the atmosphere and, in addition, all tank gauging and sampling devices shall be gas-tight except when in use or

(d) Other equipment equal to or greater in efficiency to the devices listed above, and approved by the Department.

2.5.4.2 Any person owning, leasing, or controlling a stationary tank reservoir with a capacity of greater than 40,000 gallons in which organic material having a true vapor pressure greater than 11 psi is placed, stored, or held shall equip such a stationary tank reservoir with one of the following devices or equal, within the time schedule specified in Regulation 2.5

(a) A pressure tank system maintaining a pressure at all times so as to prevent organic material loss to the atmosphere or

(b) A vapor recovery system capable of collecting the organic materials emitted from the tank and of disposing of these materials without release to the atmosphere and, in addition, all tank gauging and sampling devices shall be gas-tight except when in use or

(c) Other equipment equal to or greater in efficiency than the devices listed above and approved by the Department.

2.5.4.3 Any person owning, leasing, or controlling a loading rack with a daily throughput (1/300 of actual annual throughput) greater than 20,000 gallons which transfers organic material with a true vapor pressure of 1.5 psi or greater into tank trucks, trailers, or other contrivances shall equip such a loading rack with a vapor recovery system properly installed, well-maintained, and with a Standard Operating Procedure that has been approved by the Department, within the time schedule specified in Regulation 2.5. All loading connections on the vapor lines shall be equipped with fittings which are vapor tight and will automatically and immediately close upon disconnection so as to prevent release of organic material from the fittings. The provisions of this section shall not apply to the loading of motor vehicle fuel tanks.

2.5.4.4 Any person owning, leasing, or controlling a stationary tank having a capacity greater than 5000 gallons but less than 40,000 gallons into which motor vehicle fuels with a true vapor pressure of 1.5 psi or greater are transferred from tank truck, trailer, or other contrivance shall equip such a stationary tank with a vapor balance line or equally effective vapor discharge control system, within the time schedule specified in Regulation 2.5. Components of the vapor balance line shall consist of a vapor space connection on the tank and a compatible vapor return line on the tank truck or trailer.

(51.12) REGULATION 3. Nuclear Energy Utilization Facilities

3.1 No person shall cause, suffer, allow, or permit the construction, substantial reconstruction, or alteration of a stationary nuclear energy utilization facility in contravention of the provisions of Regulation 2 or the operation of any such facility except in accordance with a Standard Operating Procedure therefor that has been submitted to and approved by the Department in writing.

(51.5) REGULATION 4. Fossil Fuel Utilization Facilities

4.1 No person shall construct, substantially reconstruct, or alter or thereafter operate a fossil fuel utilization facility which has or will have an energy input capacity, rated by the Department, greater than three million (3,000,000) B.t.u. per hour unless the plans, specifications, Standard Operating Procedure, and maintenance procedure for said facility have been submitted to the epartment for approval and approval in writing has been granted

4.2 Smoke Density Indicator

4.2.1 On or after April 1, 1973, no person shall cause, suffer, allow or permit the burning of any grade oil or solid fuel in any fossil fuel utilization facility having an energy input capacity rated by the Department equal to or greater than ten million (10,000,000) B.t.u. per hour, that is not equipped with a smoke density sensing instrument and recorder which is properly maintained in an accurate operating condition, operates continuously and is equipped with an audible alarm to signal the need for combustion equipment adjustment or repair when the smoke density is equal to or greater than No. 1 of the Chart, and is available for inspection at reasonable times by a representative of the Department. Such inspection may include the review of recording charts which must be retained and made available for a period of one year from the date of use.

4.2.2 The Department may require fossil fuel utilization facilities other than those specified under the provisions of Regulation 4.2.2 to be equipped with smoke density sensing devices and appurtenances if, in the opinion of the Department, such are deemed necessary.

4.2.3 No person shall sell, distribute for sale, and/or install a smoke density sensing device to be installed under the provisions of Regulation 4.2.1 or Regulation 4.2.2 that is of a design and Standard Operating Procedure that has not been approved by the Department.

4.3 On and after July 1, 1973, no person shall cause, suffer, allow, or permit the operation of a fossil fuel utilization facility, having an energy input capacity rated by the Department of ten million (10,000,000) or greater B.t.u. per hour, in a manner that is not in conformance with a Standard Operating Procedure that has been approved in writing by the Department.

4.4 Removal of Air Pollution Control Equipment

4.4.1 No person shall cause, suffer, allow, or permit the removal, alteration or shall otherwise render inoperative any air pollution control equipment which has been installed as a requirement of these regulations, other than for reasonable maintenance periods or unexpected and unavoidable failure of equipment.

4.5 Circumvention

4.5.1 No person shall cause, suffer, allow, or permit the installation or use of any material, article, machine, equipment, or contrivance which conceals an emission without reducing the total weight of emissions where such emissions would constitute a violation of any applicable Regulation.

(50.2)
(51.6)

REGULATION 5. Fuels - All AQCR's unless stated otherwise

5.1 Sulfur Content of Fuels and Control Thereof

5.1.1 No person owning, leasing, or controlling the operation of a fossil fuel utilization facility located in the cities and towns of Arlington, Belmont, Boston, Brookline, Cambridge, Chelsea, Everett, Malden, Medford, Newton, Somerville, Waltham, or Watertown shall cause, suffer, allow, or permit the burning therein of any residual fuel oil or coal having a sulfur content in excess of 0.28 pounds per million B.t.u. heat release potential unless:

(a) He has applied to the Department for permission to use a higher sulfur content fuel and presented a plan whereby use of said fuel would have no greater air polluting effect than if fuel of 0.28 pounds of sulfur per million B.t.u. were burned without said plan and

(b) Said plan has been approved by the Department in writing. (Met. Boston only).

No person owning, leasing, or controlling the operation of a fossil fuel utilization facility located in the Cities of Fitchburg and Worcester, shall cause, suffer, allow, or permit the burning thereof of any residual fuel having a sulfur content in excess of .55 lbs. per million B.t.u. heat release potential (approximately equivalent to 1% sulfur content fuel oil) except as provided in Regulations 5.1.2 (e), 5.1.3 and 5.2.1.

5.1.2 No person owning, leasing, or controlling the operation of a fossil fuel utilization facility located in cities and towns other than those specified in Regulation 5.1.1 shall cause, suffer, allow, or permit the burning therein of any residual fuel oil or coal having a sulfur content in excess of 0.55 pounds per million B.t.u. heat releases potential unless

(a) He has applied to the Department for permission to use a higher sulfur content fuel and presented a plan whereby use of said fuel would have no greater air polluting effect than if fuel of 0.55 pounds of sulfur per million B.t.u. (.7% S) were burned without said plan and

(b) Said plan has been approved by the Department in writing

(c) In the Merrimack Valley Air Pollution Control District (MVAPCD) it will be permissible to burn residual fuel oil up to 2.2% sulfur content by weight, except that residual fuel oil users in the City of Lawrence and the towns of Andover, Methuen, and North Andover, will remain constrained to 1 percent sulfur content fuel oil. Also, use of higher sulfur content fuel oil by fossil fuel utilization facilities of over 100 x 10^6 B.t.u./hr heat input will be contingent upon application for and receipt of written approval from the Department.

Following source(s) are exceptions:

- Haverhill, Mass. (Limited to 1.4% sulfur content).

Between July 1, 1976 and November 1, 1976, from April 1, 1977 to November 1, 1977, and from April 1, 1978 to July 1, 1978, any person owning, leasing or controlling the operation of a fossil fuel utilization facility located in the City of Fitchburg having an energy input capacity rated by the Department of one hundred million (100,000,000) B.t.u. per hour or greater, may cause, suffer, allow, or permit the burning therein of any fossil fuel having a sulfur content not in excess of 1.21 pounds per million B.t.u. heat release potential (approximately equivalent to 2.2% sulfur content fuel oil) provided:

(1) He has applied to the Department in writing to use such fuel and submitted any information as the Department may require and

(2) The use of such fuel would not cause other applicable air pollution regulations to be violated, and

(3) The facility has available, ready for conversion within six (6) hours of notice from the Department a three (3) day supply of fuel with a lower sulfur content as specified by the Department which shall be utilized during periods of adverse meteorological conditions when directed by the Department, and

(4) The use of such fuel has been approved in writing by the Department and the conditions of approval have been agreed to by the applicant in writing

(d) In the Pioneer Valley Air Pollution Control District (PVAPCD) it will be permissible to burn residual fuel oil with up to 2.2% sulfur content by weight until June 1, 1978. This will apply to residual fuel oil burning sources having an energy input capacity of one hundred million (100×10^6) B.t.u. per hour or more as rated by the Department. The use of such fuel is to be approved in writing by the Department, and conditions of approval, including a monitoring and testing program, and agreed to by the applicant in writing. The approval may be revoked by the Department for cause, or when it is necessary to prevent or abate a condition of air pollution.

Exceptions limited to previously approved requirements:

- Mount Tom Generating Station, Holyoke, Mass.
- Deerfield Specialty Papers, Inc., Monroe, Mass.
- Westfield River Paper Co., Russell, Mass.
- Strathmore Paper Co., Westfield, Mass.
- Riverside Generating Station, Holyoke, Mass.
- Erving Paper Mills, Erving, Mass.
- Holyoke Gas & Electric Co., Holyoke, Mass.
- University of Massachusetts (Tillson Farm), Amherst, Mass.
- Westover Air Force Base, Building 7102, Chicopee, Mass.

(e) In the Central Massachusetts Air Pollution Control District (CMAPCD) it will be permissible to burn residual fuel oil with up to 2.2% sulfur content by weight, except in the Cities of Fitchburg and Worcester, until July 1, 1978. This will apply to residual fuel oil burning sources having an energy input capacity of one hundred million (100 x 10^6) B.t.u. per hour or more as rated by the Department, The use of such fuel is to be approved in writing by the Department, and conditions of approval, including a monitoring and testing program, and agreed to by the applicant in writing. The approval may be revoked by the Department for cause, or when it is necessary to prevent or abate a condition of air pollution.

Exceptions that are limited to previously approved requirements:

- Borden, Incorporated, Chemical Division, Leominster, Mass.
- The Felters Company, Millbury, Mass.
- Part of Fitchburg Company, (boilers serving the 23 meter stacks), Fitchburg, Mass.
- Fitchburg Gas and Electric Company, Fitchburg, Mass.
- General Electric Company, Fitchburg, Mass.
- Whitten Machine Works, Whitinsville, Mass.

(f) In the Southeastern Massachusetts Air Pollution Control District (SEMAPCD) it will be permissible to burn residual fuel oil up to 2.2% sulfur content by weight until May 1, 1978. This will apply to residual fuel oil burning sources having an energy input capacity of one hundred million (100 x 10^6) B.t.u. per hour or more as rated by the Department. The use of such fuel is to be approved in writing by the Department, and conditions of approval, including a monitoring and testing program, and agreed to by the applicant in writing. The approval may be revoked by the Department for cause or when it is necessary to prevent or abate a condition of air pollution.

Exceptions that are limited to previously approved requirements:

- Facility formulated, operated by Olin Chemicals and now owned by Polaroid Corp., Freetown, Mass.
- Duro Finishing Co., Fall River, Mass.
- Stevens Realty Co., Fall River, Mass.
- Taunton Municipal Light, West Water Street Plant, Taunton, Mass.
- Harodite Finishing Co., Dighton, Mass.
- Montaup Electric Co., Somerset Station, Somerset, Mass.
- New England Power Co., Brayton Point Station, Somerset, Mass.

5.1.3 No person owning, leasing, or controlling the operation of a fossil fuel utilization facility shall cause, suffer, allow, or permit the burning therein of any No. 2 fuel oil having a sulfur content in excess of 0.17 pounds of sulfur per million B.t.u. heat release potential, unless

(a) He has applied to the Department for permission to use a higher sulfur fuel and presented a plan whereby use of said fuel would have no greater air polluting effect than if fuel of 0.17 pounds of sulfur per million B.t.u. were burned without said plan and

(b) Said plan has been approved by the Department in writing.

5.1.4 No person shall ship or deliver in intrastate commerce to any person for burning, or reshipment for burning, within the District, any fuels with a sulfur content in excess of those specified in Regulation 5.1.1, 5.1.2, or 5.1.3 except that such shipment may be made provided

(a) Use of such fuel has been approved by the Department in writing,

(b) Such approval has been verified by the shipper, and

(c) Record of such shipment will be retained for two years and said record shall be made available to the Department for its review and inspection during customary business hours.

5.1.5 Any person responsible for sale or distribution of residual fuel oils or wholesale distribution or wholesale marketing of distillate fuel oils or coal for burning or reshipment for burning within the District shall register with the Department on a form to be supplied by the Department.

5.1.6 Approval granted under provisions of Regulation 5.1.1, 5.1.2, or 5.1.3 may be revoked by the Department for cause or when in its opinion such is necessary to prevent or abate a condition of air pollution.

5.2 Use of Residual Fuel Oil

5.2.1 No person having control of a fossil fuel utilization facility rated by the Department as having an energy input capacity of three million (3,000,000) or less B.t.u. per hour shall cause, suffer, allow, or permit the burning of any residual fuel oil therein

5.2.2 On and after July 1, 1973, no person owning, leasing, or controlling the operation of a fossil fuel utilization facility rated by the Department as having an energy input capacity of six million (6,000,000) or less B.t.u. per hour located in the cities and towns of Arlington, Belmont, Boston, Brookline, Cambridge, Chelsea, Everett, Malden, Medford, Newton, Somerville, Waltham, or Watertown shall cause, suffer, allow, or permit the burning of any residual fuel therein.

5.2.3 Regulation 5.2.2 shall not apply to any fossil fuel facility previously approved in writing by the Department until July 1, 1975

5.3 Hand-fired Fuel-burning Utilization Facilities

5.3.1 No person shall cause, suffer, allow, or permit any solid fuel to be burned or consumed in any hand-fired fuel-burning furnace rated by the Department as having an energy input capacity in excess of one hundred and fifty thousand (150,000) B.t.u. per hour, except as may be specifically approved in writing by the Department under the provisions of Regulation 2.

5.4 Ash Content of Fuels

5.4.1 No person shall cause, suffer, allow, or permit the burning in the District of any fossil fuel containing an ash content in excess of nine percent (9%) by dry weight.

5.4.2 Shippers and distributers of fossil fuels shall provide evidence, to the satisfaction of customer-users, of the ash content of fuels, for burning within the District.

5.5 Fuel Additives

5.5.1 No person having control of a fuel utilization facility shall cause, suffer, allow, or permit the use therein of a fuel additive which causes or contributes to a condition of air pollution or which the Department has not approved the use thereof in writing.

5.5.2 Exceptions

5.5.2.1 Regulation 5.5.1 shall not apply to any person having control of a fuel utilization facility who has

(a) applied to the Department for approval of use of a fuel additive and
(b) demonstrated to the satisfaction of the Department the need thereof and
(c) presented evidence indicating the extent to which use of the fuel additive will contribute to or minimize the potential of said facility to cause or contribute to a condition of air pollution and
(d) been granted approval for such use in writing.

5.5.2.2 Regulation 5.5.1 shall not apply to any person having control of a fuel utilization facility who uses a fuel additive therein and in a manner as recommended or prescribed by the manufacturer or distributor thereof provided the manufacturer or distributor of said fuel additive has

(a) applied to the Department for approval of said specific fuel additive for general public use thereof and
(b) defined the purpose and recommended doses for a manner of use of said additive and
(c) presented evidence indicating the extent to which said use of the fuel additive will cause or contribute to a condition of air pollution and
(d) has been granted approval in writing of said fuel additive for general public use as recommended by the manufacturer or distributor and subject to such provisions as prescribed by the Department in said approval.

and no person shall sell or distribute for sale or use any fuel additive, for use in any fuel utilization facility in the District, which the Department has not approved for use under the provisions of this regulation.

5.5.3 Regulation 5.5.1 shall not apply to any fuel additive widely used by the general public which the Department, on its own initiative, administratively exempts for the commonweal.

5.5.4 Approval for use of fuel additives under provisions of Regulation 5.5.2 may be granted for a specified period of time for research purposes provided, in the opinion of the Department, there is reason to believe that such use will not cause or contribute to a condition of air pollution.

5.6 Any person supplying, in intrastate commerce for burning or reshipment for burning within the District, fuel oil of a grade No. 2 or greater or coal shall keep and maintain records showing the quantities of the fuels handled and analyses showing the B.t.u. content, sulfur content, and ash content of said fuels and shall make such records available to the Department for its review and inspection during customary business hours.

5.7 through 5.10

(Reserved for future use)

5.11 All fuel analyses to be performed, by or for distributors or users of fuels, for purposes of these regulations shall be performed in such manner and reported in such units as are approved by the Department.

(50.2) REGULATION 5. MBAPCD Only

Regulation 5.1 Sulfur Content of Fuels and Control Thereof

Regulation 5.1.1 (a) MB

No person owning, leasing, or controlling the operation of a fossil fuel utilization facility located in the Cities and Towns of Arlington, Belmont, Boston, Brookline, Cambridge, Chelsea, Everett, Malden, Medford, Newton, Somerville, Waltham, and Watertown shall cause, suffer, allow, or permit the burning therein of any fossil fuel having a sulfur content in excess of 0.28 pounds per million B.t.u.heat release potential (approximately equivalent to 0.5% sulfur content fuel oil) except as provided in Regulations 5.5.1 (b), 5.1.3, 5.1.4, and 5.2.1.

Regulation 5.1.1 (b) MB

Between July 1, 1975 and July 1977, any person owning, leasing, or controlling the operation of an electric facility having an energy input capacity rated by the Department of two and one half billion (2.5 billion) or greater B.t.u./hour located in the Cities and Towns of Arlington, Belmont, Boston, Brookline, Cambridge, Chelsea, Everett, Malden, Medford, Newton, Somerville, Waltham, and Watertown, may cause, suffer, allow, or permit the burning therein of any fossil fuel with a sulfur content not to exceed 0.55 pounds per million B.t.u. heat release potential (approximately equivalent to 1% sulfur content fuel oil) provided

(1) he has applied to the Department in writing to use such fuel and submitted any information as the Department may require, and
(2) the Department determines that the use of such fuel would not cause other applicable air pollution control regulations or ambient air quality standards to be violated, and
(3) the facility has available for conversion within (3) three hours of any notice from the Department a three (3) day supply of fuel with a lower sulfur content as specified by the Department which shall be utilized during periods of adverse meteorological conditions when directed by the Department, and
(4) the use of such fuel has been approved in writing by the Department, and the conditions of approval have been agreed to by the applicant in writing. Such conditions of approval may include the installation, operation and maintenance of ambient air monitoring equipment by the applicant in a manner specified by the Department.

Regulation 5.1.2 (a) MB

No person owning, leasing, or controlling the operation of a fossil fuel utilization facility located in cities and towns other than those specified in Regulation 5.1.1 shall cause, suffer, allow, or permit the burning therein of any fossil fuel having a sulfer content in excess of 0.55 pounds per million B.t.u. heat release potential (approximately equivalent to 1% sulfur content fuel oil) except as provided in Regulations 5.1.2 (b), 5.1.3, 5.1.4, and 5.2.1.

Regulation 5.1.2 (b) MB

Between July 1, 1975 and July 1, 1978, any person owning, leasing, or controlling the operation of a fossil fuel utilization facility located in cities and towns other than those specified in Regulation 5.1.1 and having an energy input capacity rated by the Department of one hundred million (100,000,000) or greater B.t.u./hour may cause, suffer, allow, or permit the burning therein of any fossil fuel with a sulfur content not in excess of 1.21 pounds per million B.t.u. heat release potential (approximately equivalent to 2.2% sulfur content fuel oil) provided

(1) he has applied to the Department in writing to use such fuel and submitted any information as the Department may require, and
(2) the Department determines that the use of such fuel would not cause other applicable air pollution regulations or ambient air quality standards to be violated, and
(3) the facility has available, ready for conversion within six (6) hours of any notice from the Department a three (3) day supply of fuel with a lower sulfur content as specified by the Department which shall be utilized during periods of adverse meteorological conditions when directed by the Department, and
(4) the use of such fuel has been approved in writing by the Department and the conditions of approval have been agreed to by the applicant in writing. Such conditions of approval may include the installation, operation and maintenance of ambient air monitoring equipment by the applicant in a manner specified by the Department.

Regulation 5.1.3 MB

The provisions of Regulation 5.1.1 and 5.1.2 shall not apply to facilities that have presented a plan whereby use of a higher sulfur fuel would cause no greater emissions of sulfur compounds into the ambient air than if the lower sulfur content fuel were used and said plan has been approved by the Department in writing and the conditions for approval have been agreed to by the applicant in writing.

Regulation 5.1.4 MB

No person owning, leasing, or controlling the operation of a fossil fuel utilization facility shall cause, suffer, allow, or permit the burning therein of any No. 2 (distillate) fuel oil having a sulfur content in excess of 0.17 pounds of sulfur per million B.t.u. heat release potential (approximately equal to 0.3% sulfur content fuel), unless

(a) he has applied to the Department for permission to use a higher sulfur fuel and presented a plan whereby use of said fuel would cause no greater emissions of sulfur compounds into the ambient air than if the lower sulfur content fuel were used, and
(b) the use of such fuels has been approved in writing by the Department, and the conditions of approval have been agreed to by the applicant in writing.

Regulation 5.1.5 MB

No person shall ship or deliver in intrastate commerce to any person for burning, or reshipment for burning, within the District, any fuels with a sulfur conten in excess of those specified in Regulations 5.1.1, 5.1.2, 5.1.3, or 5.1.4 except that such shipment may be made provided

(a) use of such fuel has been approved by the Department in writing
(b) such approval has been verified by the shipper; and
(c) record of such shipment will be retained for two years and said record shall be made available to the Department for its review and inspection during customary business hours.

Regulation 5.1.6 MB

Any person responsible for sale or distribution of residual fuel oils, or wholesale distribution or wholesale marketing of distillate fuel oils or coal, for burning or reshipment for burning within the District, shall register with the Department on a form to be supplied by the Department.

Regulation 5.1.7 MB

Approval granted under provisions of Regulation 5.1.1, 5.1.2, 5.1.3, or 5.1.4, may be revoked by the Department for cause, or when in its opinion such is necessary to prevent or abate a condition of air pollution

5.2

Regulation 5.2.1 MB

No person having control of a fossil fuel utilization facility rated by the Department as having an energy input capacity of three million (3,000,000) or less B.t.u. per hour shall cause, suffer, allow, or permit the burning of any residual fuel oil therein.

5.3 Hand-Fired Fuel-Burning Utilization Facilities

Regulation 5.3.1 MB

No person shall cause, suffer, allow, or permit any solid fuel to be burned or consumed in any hand-fired fuel-burning furnace rated by the Department as having an energy input capacity in excess of one hundred and fifty thousand (150,000) B.t.u. per hour, except as may be specifically approved in writing by the Department under the provisions of Regulation 2.

5.4 Ash Content of Fuels

Regulation 5.4.1 (a) MB

No person shall cause, suffer, allow, or permit the burning in the District of any fossil fuel containing an ash content in excess of nine percent (9%) by dry weight except as provided in Regulation 5.4.1 (b)

Regulation 5.4.1 (b) MB

Fossil fuel utilization facilities having an energy input capacity rated by the Department of two hundred and fifty million (250,000,000) or greater B.t.u./hour may burn fossil fuel with an ash content in excess of nine percent (9%) by dry weight, provided

(1) application is made to the Department in writing to use such fuel and any information as the Department may require is submitted, and
(2) the Department determines that the use of such fuel would not cause other applicable air pollution control regulations or ambient air quality standards to be violated, and
(3) the use of such fuel has been approved in writing by the Department and the conditions of approval have been agreed to by the applicant in writing. Such conditions of approval may include the installation, operation and maintenance of ambient air monitoring equipment by the applicant in a manner specified by the Department.

Regulation 5.4.2 MB

Shippers and distributors of fossil fuels shall provide evidence, to the satisfaction of customer-users, of the ash content of fuels supplied for burning within the District.

5.5 Fuel Additives

5.5.1 MB

No person having control of a fuel utilization facility shall cause, suffer, allow, or permit the use therein of a fuel additive which may cause, or contribute to a condition of air pollution, or for which the Department has not approved the use thereof in writing.

5.5.2 Exceptions

5.5.2.1 MB Regulation 5.5.1 shall not apply to any person having control of a fuel utilization facility who has

(a) applied to the Department for approval of use of a fuel additive, and
(b) demonstrated to the satisfaction of the Department the need thereof, and
(c) presented evidence indicating the extent to which use of the fuel additive will contribute to or minimize the potential of said facility to cause or contribute to a condition of air pollution, and
(d) been granted approval by the Department for such use in writing.

5.5.2.2 MB Regulation 5.5.1 shall not apply to any person having control of a fuel utilization facility who uses a fuel additive therein in a manner as recommended or prescribed by the manufacturer or distributor thereof, provided the manufacturer or distributor of said fuel additive has

(a) applied to the Department for approval of said specific fuel additive for general public use thereof, and
(b) defined the purpose and recommended doses and manner of use of said additive, and
(c) presented evidence indicating the extent to which said use of the fuel additive will cause or contribute to a condition of air pollution, and
(d) has been granted approval by the Department in writing of said fuel additive for general public use as recommended by the manufacturer or distributor, subject to such provisions as prescribed by the Department in said approval.

No person shall sell or distribute for sale or use of any fuel additive, for use in any fuel utilization facility in the District, which the Department has not approved for use under the provisions of this regulation.

5.5.3 MB Regulation 5.5.1 shall not apply to any fuel additive widely used by the general public which the Department, on its own initiative, administratively exempts for the commonweal.

5.5.4 MB Approval for use of fuel additives under provisions of Regulation 5.5.2 may be granted for a specified period of time for research purposes provided, in the opinion of the Department, there is reason to be believe that such use will not cause or contribute to a condition of air pollution.

Regulation 5.6 - Fuel Suppliers

5.6.1 MB

Any person supplying in intrastate commerce for burning, or reshipment for burning, within the District, fuel oil of a grade No. 2 or greater, or coal, shall keep and maintain records showing the quantities of the fuels handled, and analyses showing the B.t.u. value, sulfur content, viscosity, and ash content of said fuels, and make such records available to the Department for its review and inspection during customary business hours.

5.6.2 MB

Any person supplying in intrastate commerce for burning within the District, fuel oil of a grade No. 2 or greater, or coal, or gas, shall submit a list of customers using more than 30,000 gallons per year of fuel oil, or more than 150 tons of coal, or more than 4,000,000 cubic feet of gas, by May 1st of each year covering the period of January 1st to December 31st of the previous year, and showing each customer's address, fuel type, sulfur content and monthly fuel amount, (the Department will maintain the confidentiality of customer name and address as per Executive Order 75, paragraph 3, except when such information is required for law enforcement purposes).

5.7 through 5.10 (Reserved for future use)

5.11 MB

All fuel analyses to be performed by or for distributors or users of fuels, for purposes of these regulations, shall be performed in such manner and report in such units as are approved by the Department.

(Regulation 5.1 is approved, except the Eastman Gelatin Corp., Peabody, Mass. remains subject to original requirement of Regulation 5 that sources outside the Boston "core area" are permitted to burn fossil fuel having a sulfur content not in excess of 0.55 lbs. per million B.t.u. heat release potential (approximately equivalent to 1% S content residual oil by weight)).

(50.1.2) REGULATION 6. Visible Emissions

6.1 From Stationary Sources Other Than Incinerators

6.1.1 No person shall cause, suffer, allow, or permit the emission of smoke which has a shade, density, or appearance equal to or greater than No. 1 of the Chart for a period, or aggregate period of time in excess of six minutes during any one hour, provided that at no time during the said six minutes shall the shade, density, or appearance be equal to or greater than No. 2 of the Chart.

6.1.2 No person shall cause, suffer, allow or permit the operation of a facility so as to emit contaminant(s), exclusive of uncombined water or smoke subject to Regulation 6.1.1, of such opacity which, in the opinion of the Department, could be reasonable controlled through the application of modern technology of control and a good Standard Operating Procedure, and in no case, shall exceed 20% opacity for a period or aggregate period of time in excess of 2 minutes during any one hour provided that, at no time during the said 2 minutes shall the opacity exceed 40%.

6.2 From Incinerators

6.2.1 No person shall cause, suffer, allow, or permit the emission of smoke, from any incinerator, which has a shade, density, or appearance equal to or greater than No. 1 of the Chart at any time.

6.3 From Marine Vessels

6.3.1 Marine vessels shall be subject to the provisions of Regulation 6.1.1 and 6.1.2. This Regulation shall apply only in the Merrimack Valley Air Pollution Control District, Metropolitan Boston Air Pollution Control District, and the Southeastern Massachusetts Air Pollution Control District.

6.4 From Aircraft

6.4.1 After December 31, 1972, no person shall cause, suffer, allow, or permit the emission from an aircraft of smoke which has a shade, density, or appearance equal to or greater than No. 2 of the Chart for a period of time in excess of ten seconds during landing, takeoff, or taxiing operations.

6.5 From Spark-Ignited Internal Combustion Engines

6.5.1 No person shall cause, suffer, allow, or permit emission of visible air contaminants, other than water, from internal combustion engines of:

(a) portable or stationary equipment, other than motor vehicles, for longer than ten (10) consecutive seconds; or
(b) a motor vehicle after the vehicle has moved more than 100 feet from a place where the vehicle was stationary; or
(c) a motor vehicle, for more than five (5) consecutive seconds, under any condition of cruising or acceleration.

6.6 From Diesel Engines

6.6.1 No person shall cause, suffer, allow, or permit excessive emission of visible air contaminants, other than water, from a diesel engine.

(51.13) REGULATION 7. Open Burning

7.1 No person shall cause, suffer, allow, or permit the open burning of any combustible material.

7.2 Except during periods of adverse meteorological conditions as may be determined by the Department and when direct or public notice thereof has been made by the Department through the news media, Regulation 7.1 shall not apply to:

7.2.1 Open burning primarily conducted for cooking purposes:

7.2.2 Open burning related to the operation of devices such as blowtorches and welding torches, for which no alternative source of heat can be used, provided that such devices do not cause a condition of air pollution;

7.2.3 Open burning for the purpose of training or research in fire protection or prevention, provided a properly executed permit has been obtained pursuant to Section 13 of Chapter 48 of the General Laws and further provided that such permit has been approved by the Department;

7.2.4 Open burning for the purpose of combating or back firing an existing fire by persons affiliated with an official fire fighting agency;

7.2.5 Open burning, associated with the normal pursuit of agriculture, which in the opinion of the Department is deemed necessary and which includes, but is not limited to, open burning of blueberry patches for pruning purposes, dead raspberry stalks, fruit tree prunings, and infected bee-hives for disease control provided such burning is conducted:

(a) during periods of good atmosphere ventilation,
(b) without causing a nuisance,
(c) with smoke minimizing starters if starters or starting aids are used, and
(d) under the provisions of a properly executed permit issued under the provisions of Section 13 of Chapter 48 of the General Laws;

7.2.6 Open burning of brush and trees resulting from agricultural land clearing operations provided that such burning is conducted:

(a) during periods of good atmospheric ventilation,
(b) without causing a nuisance,
(c) with smoke minimizing starters if starters or starting aids are used, and
(d) under the provisions of a properly executed permit issued under the provisions of Section 13 of Chapter 48 of the General Laws;

7.2.7 Open burning of fungus-infested elm wood provided that no suitable alternate method of disposal is available and that such burning is conducted:

(a) during periods of good atmospheric ventilation,
(b) without causing a nuisance,
(c) with smoke minimizing starters if starters or starting aids are used, and
(d) under the provisions of a properly executed permit issued under the provisions of Section 13 of Chapter 48 of the General Laws; or

7.2.8 Open burning of combustible material with approval of the Department and after demonstration to the satisfaction of the Department that no alternative suitable method of disposal of said material is available provided that such burning is conducted:

(a) during periods of good atmospheric ventilation,
(b) without causing a nuisance,
(c) with smoke minimizing starters if starters or starting aids are used, and
(d) under the provisions of a properly executed permit issued under the provisions of Section 13 of Chapter 48 of the General Laws.

7.3 Except as may be incidental to compliance with provisions contained in Regulation 7.2, no person shall place or store, in the ambient air space, combustible material in such a manner as to cause or allow the presumption by the Department that such material may be subjected to reduction by burning.

7.4 Regulations 7.1, 7.2, and 7.3 are subject to the enforcement provisions specified in Regulation 52.1.

(51.9) REGULATION 8. Incinerators

8.1 General

8.1.1 No person shall cause, suffer, allow, or permit the construction or substantial reconstruction or alteration of any incinerator for which

(a) the design for construction or substantial reconstruction or alteration thereof and
(b) the Standard Operating Procedure

have not been approved by the Department in writing.

8.1.2 No person shall sell or distribute for sale any special incinerator or modular incinerator, for installation or use within the District, the design and Standard Operating Procedure for which have not been approved in writing by the Department or certification of said approval has not been given by the person selling or distributing the incinerator to the person to whom the sale or distribution is made.

8.1.3 No person shall cause, suffer, allow, or permit the burning of refuse or any other material in any incinerator in a manner that is not in conformance with a Standard Operating Procedure (for the incinerator) that has been approved by the Department in writing.

8.1.4 No person shall cause, suffer, allow, or permit the burning of refuse or any other material in any incinerator, other than a municipal incinerator, which is of a design that has not been approved by the Department in writing.

8.1.5 No person shall cause, suffer, allow, or permit the burning of refuse or any other material in an incinerator at a specific site location that, in the opinion of the Department, is likely to cause or contribute to a condition of air pollution and when the person responsible for the operation of the incinerator has been notified of said opinion.

8.1.6 Regulations 8.1.3 and 8.1.4 are subject to the enforcement provisions specified in Regulation 52.1, insofar as they pertain to domestic incinerators.

8.2 Municipal Incinerators

8.2.1 No person shall cause, suffer, allow, or permit the construction or substantial reconstruction or alteration or thereafter the operation of a municipal incinerator for which the site location has not been approved by the Department in writing.

8.2.2 No person shall cause, suffer, allow or permit the operation of a municipal incinerator unless said incinerator has complied with the provisions of Regulation 2.

8.2.3 Tests for determining emission contaminant concentrations shall be conducted in a manner as specified in Regulation 2.5.3.

8.3 Commercial, Industrial, and Special Incinerators

8.3.1 No person shall cause, suffer, allow, or permit the construction or substantial reconstruction or alteration or thereafter the operation of a commercial, industrial, or special incinerator for which the site location has not been approved by the Department in writing.

(50.1.3)
(50.6)

REGULATION 9. Dust and Odor

9.1 No person having control of any dust or odor generating operations such as, but not limited to asphalt batching plants, asphalt roofing materials manufacturing plants, asphalt blowing plants, foundries, chemical products manufacturing plants, incinerators, fossil fuel utilization facilities, petroleum products manufacturing plants, aggregate manufacturing plants, food preparation or processing facilities, wood products plants, dry cleaning establishments, paint and varnish manufacturing plants, paper manufacturing plants, leather manufacturing plants, concrete batching plants, metal coating and treating plants, land clearing operations, construction work, dump operations, building demolition and agricultural operations shall permit emissions therefrom which cause or contribute to a condition of air pollution.

9.2 No person shall cause, suffer, allow, or permit the handling or transportation or storage of any material in a manner that results or may result in emissions therefrom which cause or contribute to a condition of air pollution.

9.3 No person shall cause, suffer, allow, or permit a building, road, driveway, or open area to be constructed, used, repaired, or demolished without applying such reasonable measures as may be necessary to prevent particulate matter from becoming air-borne that may cause or contribute to a condition of air pollution.

9.4 Regulation 9.1, 9.2, and 9.3 are subject to the enforcement provisions specified in Regulation 52.1.

(50.7) REGULATION 10. Noise

10.1 No person owning, leasing, or controlling a source of sound shall willfully, negligently, or through failure to provide necessary equipment, service, or maintenance or to take necessary precautions cause, suffer, allow, or permit unnecessary emissions from said source of sound that may cause noise.

10.2 Regulation 10.1 shall pertain to, but shall not be limited to, prolonged unattended sounding of burgular alarms, construction and demolition equipment which characteristically emit sound but which may be fitted and accommodated with equipment such as enclosures to suppress sound or may be operated in a manner so as to suppress sound, suppressable and preventable industrial and commercial sources of sound, and other man-made sounds that cause noise.

10.3 Regulation 10.1 shall not apply to sounds emitted during and associated with

(a) parades, public gatherings, or sporting events, for which permits have been issued provided that said parades, public gatherings, or sporting events in one city or town do not cause noise in another city or town;
(b) emergency police, fire, and ambulance vehicles;
(c) police, fire, and civil and national defense activities; and
(d) domestic equipment such as lawn mowers and power saws between the hours of 7 A.M. and 9 P.M.

10.4 Regulation 10.1 is subject to the enforcement provisions specified in Regulation 52.1.

(12.0) REGULATION 11. Transportation Media (Be referred to Regulation 6)

11.1 Motor Vehicles

11.1.1 All motor vehicles registered in the Commonwealth shall comply with pertinent regulations of the Registry of Motor Vehicles relative to exhaust and sound emissions.

11.1.2 No person shall cause, suffer, allow, or permit the unnecessary operation of the engine of a motor vehicle while said vehicle is stopped for a foreseeable period of time in excess of five minutes. This regulation shall not apply to

(a) vehicles being serviced, provided that operation of the engine is essential to the proper repair thereof, or
(b) vehicles engaged in the delivery or acceptance of goods, wares, or merchandise for which engine assisted power is necessary and substitute alternate means cannot be made available, or
(c) vehicles engaged in an operation for which the engine power is necessary for an associated power need other than movement and substitute alternate power means cannot be made available provided that such operation does not cause or contribute to a condition of air pollution.

11.1.3 Regulation 11.1.2 is subject to the enforcement provisions specified in Regulation 52.1.

11.2 Diesel Trains

11.2.1 No person owning or operating a diesel powered locomotive shall cause, suffer, allow, or permit said locomotive to be operated in a manner such as to cause or contribute to a condition of air pollution.

11.2.2 No person shall cause, suffer, allow, or permit the unnecessary foreseeable idling of a diesel locomotive for a continuous period of time longer than thirty minutes. This regulation shall not apply to diesel locomotives being serviced provided that idling is essential to the proper repair of said locomotive and that such idling does not cause or contribute to a condition of air pollution.

11.2.3 Regulations 11.2.1 and 11.2.2 are subject to the enforcement provisions specified in Regulation 52.1.

11.3 Aircraft

11.3.1 No person owning or operating an airport shall cause, suffer, allow, or permit routine warmups, testing, or other operation of aircraft while on the ground, in such a manner as to cause or contribute to a condition of air pollution, outside of the property lines of the airport, that in the opinion of the Department are unreasonable and feasibly preventable.

11.4 Marine Vessels

11.4.1 No person owning, operating, or having control of a seagoing vessel while it is in the District shall cause, suffer, allow, or permit, aboard said vessel, tube blowing or soot removal activities that cause or contribute to a condition of air pollution. This Regulation shall apply only in the Merrimack Valley Air Pollution Control District, Metropolitan Boston Air Pollution Control District, and the Southeastern Massachusetts Air Pollution Control District.

(13.0) REGULATION 12. Registration Record Keeping And Reporting

12.1 General Application: No person shall cause, suffer, allow, or permit the operation of an air contamination source until that person complies with the provisions of Chapter 111, Section 142B of the General Laws as amended by Chapter 797 of the Acts of 1971.

All persons owning, operating, or controlling sources as described below must apply annually for registration on a form supplied by the Department setting forth such information pertaining to said source as the Department may specify.

Written acknowledgement of registration shall indicate the Department's approval of the information described in the registration application and authorizes operation of said source for 1 year from date of acknowledgement unless otherwise specified.

No person shall operate an unregistered source as defined in Regulation 12.2, 12.3, and 12.4 (field of application).

12.2 Fossil Fuel Combustion Facilities

12.2.1 Any person having control of a fuel burning facility such as but not limited to a coal burner, oil burner, wood burner, or gas burner that has a rated input capacity in excess of three (3) million B.t.u. per hour shall comply with Regulation 12.1.

12.3 Industrial Facilities

12.3.1 Any person having control of an industrial facility having an emission capability of equal to or greater than

(a) five (5) lbs/hr. of particulate matter,
(b) four (4) lbs/hr. of oxides of sulfur,
(c) forty (40) lbs/day of organic material, or
(d) one (1) lb/hr. of nitrogen dioxide

shall comply with Regulation 12.1.

12.3.2 Regulation 12.1 and 12.3.1 shall apply to such industrial facilities as asphalt batching plants, foundries, chemical products manufacturing plants, petroleum products and manufacturing plants, aggregate manufacturing plants, food and food products plants, dry cleaning establishments, paint and varnish manufacturing plants, paper manufacturing plants, leather manufacturing plants, concrete manufacturing plants, and metal coating and treating plants, and such other facilities as the Department may require.

12.4 Incinerators

12.4.1 Any person having control of an incineration facility that has a capability of reducing in excess of 1,000 pounds per hour of waste shall comply with Regulation 12.1.

(9.0) REGULATION 13. Stack Testing

13.1 Any person having control of a facility for which the Department has determined that stack testing is necessary to ascertain compliance with the Department's regulations or design approval provisos shall cause such stack testing:

(a) to be conducted by a person knowledgeable in stack testing,

(b) to be conducted in accordance with procedures approved by the Department,

(c) to be conducted in the presence of a representative of the Department when such is deemed necessary, and

(d) to be summarized and submitted to the Department with analyses and report by an engineer registered in accordance with the provisions of Chapter 112 of the General Laws as amended.

13.2 Any person having control of a facility, relative to which the Department determines that stack testing (to ascertain the mass emission rates of air contaminants emitted under various operating conditions) is necessary for the purposes of regulation enforcement or determination of regulation compliance shall cooperate with the Department to provide:

(a) entrance to a location suitable for stack sampling,

(b) sampling ports at locations where representative samples may be obtained,

(c) staging and ladders to support personnel and equipment for performing the tests,

(d) a suitable power source at the sampling location for the operation of sampling equipment, and

(e) such other reasonable facilities as may be requested by the Department.

(9.0) (13.0) REGULATION 14. Monitoring Devices and Reports

(This regulation is disapproved only to the extent that it does not require periodic reports on emissions).

14.1 Upon request by the Department through direct communication or public notice, any person who owns or operates a stationary emission source of a category and class specified by the Department,

(a) shall install, maintain, and use emission monitoring devices, of a design and installation approved by the Department, and

(b) shall make periodic reports to the Department on the nature and amounts of emissions from said such source which the Department shall review and correlate for its use in emissions control and exhibit for public information.

(50.7) REGULATION 15

15.1 No person shall cause, suffer, allow, or permit the spray application of asbestos fibers or materials containing asbestos fibers; or the application of said materials by means which, in the opinion of the Department, may cause or contribute to a condition of air pollution.

REGULATIONS 16 through 49

(Reserved for future use)

(5.0) REGULATION 50. Variances

50.1 The Department upon its own initiative or upon application to it by any person, after due notice and a public hearing, may vary the application of any regulation as it relates to any person as the Department may deem necessary.

Variances may be granted when in the opinion of the Department efforts have been made in good faith by such person to comply with the regulations prior to the petition for a variance, and:

(1) when enforcement of the regulation is considered to be impractical due to lack of currently available technology or available conforming fuel, or

(2) when compliance with the regulation is considered to be impossible due to unavoidable delays in obtaining control equipment, or

(3) when compliance with the regulation is interfered with due to acts of nature, or

(4) when the benefits expected to be derived from requiring such person to comply with such regulation would be substantially outweighed by the cost to such person and the loss to the public resulting from compliance, and that granting such a variance would have no significant deleterious effect on public health.

Variances where granted, shall:

(a) be in writing

(b) not extend beyond May 31, 1975, or such later date as may be prescribed by Federal law.

(c) be subject to the approval of the administrator of the Environmental Protection Agency.

The applicant shall assume all costs such as, but not limited to, the publishing of legal notices incidental to the application for and granting of a variance.

(16.0) REGULATION 51. Hearings Relative to Orders and Approvals

51.1 The Department will grant a hearing, upon application in writing, for the purpose of reconsideration to any person to whom an ORDER has been issued, provided that such application is made within then (10) days of the receipt of the ORDER.

51.2 Upon receipt of a proposal for the construction, substantial reconstruction or alteration of any facility regulated by the Department of Public Utilities, insofar as the facility may have an impact on air quality, the Department of Public Health shall hold a public hearing prior to consideration for approval or disapproval of said facility.

(15.0) REGULATION 52. Enforcement Provisions

52.1 Any police department, fire department, board of health, officials, or building inspector or his designee acting within his jurisdictional area is hereby authorized by the Department to enforce, as provided for in Section 142B of Chapter 111, any regulation in which specific reference to Regulation 52.1 is cited.

REGULATIONS 53 through 59

(Reserved for future use)

(2.0) REGULATION 60. Severability

60.1 Each of these regulations shall be construed as separate to the end that if any regulation or sentence, clause, or phrases thereof shall be held invalid for any reason, the remainder of that regulation and all other regulations shall continue in full force.

THE COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF PUBLIC HEALTH
DIVISION OF ENVIRONMENTAL HEALTH
BUREAU OF AIR QUALITY CONTROL

REGULATIONS
FOR THE PREVENTION AND/OR ABATEMENT OF AIR POLLUTION EPISODE AND AIR POLLUTION INCIDENT EMERGENCIES

(Part of the Air Pollution Emergency Plan)

Adopted under the provisions of Section 2B, Chapter 111 of the General Laws, as inserted by Chapter 900 of the Acts of 1967.

Revised 2/9/72

(8.0) REGULATION 1. INTRODUCTION

The purpose of the "Regulations for the Prevention and/or Abatement of Air Pollution Episode and Air Pollution Incident Emergencies" is to prevent ambient air contaminant concentrations at any location in the Commonwealth from reaching levels which would constitute imminent and substantial endangerment to the health of persons. The levels which would constitute imminent and substantial endangerment to the health of persons as have been defined by the Administrator of the Environmental Protection Agency are set forth in the table below:

CONTAMINANT CONCENTRATION LEVELS

Prescribed by the EPA Administrator as would cause imminent
and Substantial Endangerment to Health.

Contaminant	Ambient Air Contaminant Concentration Levels				
	Ave. ugm/M^3	ppm	COHs	Duration	Product
Sulfur Dioxide (SO_2)	2,620	1.0		24-hr.	
Particulate Matter					
Hi-Vol (TSP)	1,000			24-hr.	
Tape Stain (COHs)			8		
Product of:					
(SO_2) x (TSP) or	(SO_2) (TSP)			24-hr.	490,000
(SO_2) x (COHs)		(SO_2)	(COHs)	24-hr.	1.5
Carbon Monoxide	144,000	125		1-hr.	
Carbon Monoxide	86,300	75		4-hr.	
Carbon Monoxide	57,500	50		8-hr.	
Photochemical Oxidant	1,400	0.7*		1-hr.	
Photochemical Oxidant	1,200	0.6*		2-hr.	
Photochemical Oxidant	800	0.4*		4-hr.	
Nitrogen Dioxide	3,750	2.0		1-hr.	
Nitrogen Dioxide	938	0.5		24-hr.	

* Expressed as Ozone (O_3)

(8.0)
(1.0)

REGULATION 2. DEFINITIONS

When used in the "Regulations for the Prevention and/or Abatement of Air Pollution Episode and Air Pollution Incident Emergencies" and in communications, notices, or orders relative thereto, the following words and phrases shall have the meanings ascribed below:

2.1 AIR CONTAMINANT means any substance or man-made physical phenomenon in the ambient air space and includes, but is not limited to, dust, flyash, gas, fume, mist, odor, smoke, vapor, pollen, microorganism, radioactive material, radiation, heat, sound, any combination thereof, or any decay or reaction product thereof.

2.2 AIR CONTAMINANT SOURCE means any place or thing capable of rendering an emission.

2.3 AIR POLLUTION means the presence in the ambient air space of one or more air contaminants or combinations thereof in such concentrations and of such duration as to:

(a) cause a nuisance,
(b) be injurious, or be on the basis of current information, potentially injurious to human or animal life, to vegetation, or to property, or
(c) unreasonably interfere with the comfortable enjoyment of life and property or the conduct of business.

2.4 AIR POLLUTION EPISODE means a state of the ambient air environment in which the concentrations of air contaminants are elevated to or are in excess of certain defined levels and that certain meteorological conditions are expected to maintain.

2.5 AIR POLLUTION EPISODE ALERT (APEA) means that degree of Air Pollution Episode which meets the criteria for determination of an Air Pollution Episode Alert as set forth in Regulation 3 of these regulations.

2.6 AIR POLLUTION EPISODE EMERGENCY (APEE) means that degree of Air Pollution Episode which meets the criteria for determination of an Air Pollution Episode Emergency as set forth in Regulation 3 of these regulations.

2.7 AIR POLLUTION EPISODE WARNING (APEW) means that degree of Air Pollution Episode which meets the criteria for determination of an Air Pollution Episode Warning as set forth in Regulation 3 of these regulations.

2.8 AIR POLLUTION INCIDENT EMERGENCY (APIE) means a state or condition in the environment, which in the opinion of the Commissioner, has or potentially may cause air contamination which has resulted in or potentially will result in an imminent and substantial endangerment to the public health; e.g. an APIE may be caused by a foreseeable or unforeseeable happening that has or potentially may result in an emission that may cause air pollution.

2.9 AMBIENT AIR means the atmosphere or a portion thereof in the air space above the geographical area of Massachusetts or portion thereof.

2.10 ATMOSPHERIC STAGNATION ADVISORY means an advisory, issued by the Environmental Meteorological Support Unit of the National Weather Service, relative to meteorological conditions that are predicted to be manifest for 36 hours or more and to be characterized by poor ventilation and potential increase of ambient air contaminant concentration levels. (The advisories may be prepared for regions of substantial area or, as the need may dictate, for local, relatively small areas, when indicated.)

2.11 COH - COEFFICIENT OF HAZE means the unit which quantifies the increase in photometric density of a filter tape due to deposition of particles per 1000 linear feet of air through a 1" diameter filter when sampled at the rate of approximately 0.25 cfm.

2.12 COMMISSIONER means the Commissioner of the Department or his official designees.

2.13 DEPARTMENT means the Department of Public Health.

2.14 EMISSION means any discharge or release of an air contaminant to the ambient air space.

2.15 EMISSION REDUCTION PLAN(S) (ERP) means the plans for reducing emissions during Air Pollution Episode Alerts, Warnings, and/or Emergencies.

2.16 ugm/M^3 means micrograms per cubic meter.

2.17 NEWS MEDIA means certain channels of communication by which information is conveyed between persons; it includes, but is not limited to, radio, television, and newspapers.

2.18 p.p.m. means parts per million.

2.19 PERSON means any individual, partnership, association, firm, syndicate, company, trust, corporation, department, authority, bureau, agency, political subdivision of the Commonwealth, law enforcement agency, fire fighting agency, or any other entity recognized by law as the subject of rights and duties.

2.20 TSP means Total Suspended Particulates expressed in ugm/M^3.

(8.0) REGULATION 3. AIR POLLUTION EPISODE CRITERIA

3.1 Criteria to be used in the determination of:

(a) Air Pollution Episode Alert - APEA
(b) Air Pollution Episode Warning - APEW, and
(c) Air Pollution Episode Emergency - APEE

are set forth in this regulation. The criteria are for the purpose of assisting the Department in the determination of the degree of episode based upon the ambient air contaminant concentration levels attained (or predicted) and meteorological conditions manifest and predicted.

3.2 (a)

CRITERIA
FOR DETERMINATION OF
AIR POLLUTION EPISODE ALERT (APEA)

Contaminant	Ambient Air Contaminant Concentration Levels				
	Ave. ugm/M^3	ppm	COHs	Duration	Product*
Sulfur Dioxide (SO_2)	800	0.3		24-hr.	
Particulate Matter					
Hi-Vol (TSP)	375			24-hr.	
Tape Stain (COHs)			3	24-hr.	
Product of:					
(SO_2) x (TSP) or	(SO_2) (TSP)			24-hr.	65,000
$(S)_2)$ x (COHs)		(SO_2)	(COHs)	24-hr.	0.2
Carbon Monoxide	17,000	15		8-hr.	
Ozone (O_3)	200	0.1		1-hr.	
Nitrogen Dioxide	1,130	0.6		1-hr.	
Nitrogen Dioxide	282	0.15		24-hr.	

Meteorological Conditions are such that the Department is of the opinion that, unless appropriate control actions to reduce emissions are taken, ambient air contaminant concentration levels will remain at or in excess of the above levels for twelve (12) or more hours.

3.2 (b)

CRITERIA
FOR DETERMINATION OF
AIR POLLUTION EPISODE WARNING (APEW)

Contaminant	Ambient Air Contaminant Concentration Levels				
	Ave. ugm/M^3	ppm	COHs	Duration	Product
Sulfur Dioxide (SO_2)	1,600	0.6		24-hr.	
Particulate Matter					
Hi-Vol (TSP)	625			24-hr.	
Tape Stain (COHs)			5		
Product of:					
(SO_2) x (TSP) or	(SO_2) (TSP)			24-hr.	261,000
(SO_2) x (COHs)		(SO_2)	(COHs)	24-hr.	0.8
Carbon Monoxide	34,000	30		8-hr.	
Ozone (O_3)	800	0.4		1-hr.	
Nitrogen Dioxide	2,260	1.2		1-hr.	
Nitrogen Dioxide	565	0.3		24-hr.	

Meteorological Conditions are such that the Department is of the opinion that, unless appropriate control actions to reduce emissions are taken, ambient air contaminant concentration levels will remain at or in excess of the above levels for twelve (12) or more hours.

3.2 (c)

CRITERIA FOR DETERMINATION OF AIR POLLUTION EPISODE EMERGENCY (APEE)

Contaminant	Ambient Air Contaminant Concentration Levels				
	Ave. ugm/M^3	ppm	COHs	Duration	Product
Sulfur Dioxide (SO_2)	2,100	0.8		24-hr.	
Particulate Matter					
Hi-Vol (TSP)	875			24-hr.	
Tape Stain (COHs)			7	24-hr.	
Product of:					
(SO_2) x (TSP) or	(SO_2) (TSP)			24-hr.	393,000
(SO_2) x (COHs)		(SO_2)	(COHs)	24-hr.	1.2
Carbon Monoxide	46,000	40		8-hr.	
Ozone (O_3)	1,200	0.6		1-hr.	
Nitrogen Dioxide	3,000	1.6		1-hr.	
Nitrogen Dioxide	750	0.4		24-hr.	

Meteorological Conditions are such that the Department is of the opinion that ambient air contaminant concentration levels will remain at or in excess of the above levels for twelve (12) or more hours.

(8.0) REGULATION 4. AIR POLLUTION EPISODE POTENTIAL ADVISORIES

4.1 Atmospheric Stagnation Advisories received by the Department shall be evaluated by the Department in the light of manifest local meteorological conditions, weather forecast, ambient air contaminant concentration levels observed, and anticipated weather-influenced emissions.

4.2 During period of suspected poor atmospheric ventilation, Atmospheric Stagnation Advisories, and Air Pollution Episodes, the Department will maintain close liaison with the local Environmental Meteorological Support Unit (EMSU) to exchange information of mutual benefit.

(8.0) REGULATION 5. DECLARATION OF AIR POLLUTION EPISODES AND INCIDENTS

5.1 The Commissioner, based upon the Department's evaluation of such information relative to ambient air contaminant concentrations levels as may be available to the Department, meteorological conditions extant, the Criteria set forth in Regulation 3 and/or other substantive and germane information, shall declare an

(a) Air Pollution Episode Alert
(b) Air Pollution Episode Warning, or
(c) Air Pollution Incident Emergency

5.2 The Commissioner, with the approval of the Governor, based upon the Department's evaluation of such information relative to the ambient air contaminant concentrations levels as may be available to the Department, meteorological conditions extant, the Criteria set forth in Regulation 3 and/or other substantive and germane information shall declare an Air Pollution Episode Emergency.

5.3 When an Air Pollution Episode or Incident Emergency is declared, the Commissioner shall specify the contaminant(s) and portion(s) of the Commonwealth in which said Episodes or Incident Emergencies pertain.

5.4 Notice of a declaration of an Air Pollution Episode or Incident Emergency shall be made through the News Media to the extent feasible and such other means of communication as the Commissioner deems appropriate.

(8.0) REGULATION 6. TERMINATION OF AIR POLLUTION EPISODES AND INCIDENT EMERGENCIES

6.1 Whenever an Air Pollution Episode is declared, said level (or status) of episode will remain in effect until the criteria for that said level are no longer being met and, at such time, the next lower level (or status) will be assumed.

6.2 When the conditions which occasioned the need for declaration of an Air Pollution Episode or Incident Emergency no longer exist, the Commissioner shall declare a termination.

(8.0) REGULATION 7. EMISSION REDUCTIONS STRATEGIES

7.1 Upon the declaration of an Air Pollution Episode, any person responsible for or having control over an ambient air contaminant emission source shall implement, to the extent possible, the indicated action strategies as listed below for the episode level and contaminant of concern as declared by the Commissioner.

Action Strategies	Alert	Warning	Emergency
APC Regulations in force	X	X	X
Open burning variances cancelled	X	X	X
Incinerator use 12 AM - 4 PM only	X	X	X
Curtail motor vehicle use	X	-	-
Stop unnecessary motor vehicle use	-	X	X
Electric Power Generating Facilities			
Boiler lancing or soot blowing between 12 AM - 4 PM only	X	X	X
Use of lowest sulfur content fuel available	X	X	X
Use of lowest ash content fuel available	X	X	X
Power source switching	X	X	X
Process Steam Generating Facilities			
Boiler lancing or soot blowing between 12 AM - 4 PM only	X	X	X
Use of lowest sulfur content fuel available	X	X	X
Use of lowest ash content fuel available	X	X	X
Purchase instead of generate electric power	X	X	X
Reduction of steam demands consistent with plant operations	X	X	X
Other industries			
Boiler lancing or soot blowing between 12 MA - 4 PM only	X	X	X
Purchase instead of generate electric power	X	X	X
Postponing or deferring production and all operations	X	X	X
Reduction of heat load demands	X	X	-
Notification to sensitive persons	-	X	X
No use of incinerators	-	X	X
Stop building construction and demolition	-	X	X

Action Strategies	Alert	Warning	Emergency
Electric Power Generating Facilities			
Make ready for use of Emission Reduction Plan (ERP)	-	X	X
Process Steam Generating Facilities			
Make ready for use of ERP	-	X	X
Other Industries			
Make ready for use of ERP	-	X	X
Stop all motor vehicle use (except emergency vehicles)	-	X	X
All industries enact ERP's	-	-	X
The following shall cease operations			
mining and quarring of non-metallic minerals	-	-	X
manufacturing establishments with no ERP	-	-	X
wholesale trade establishments	-	-	X
non-essential local, county, state and federal offices	-	-	X
retail trade establishments	-	-	X
banks, credit agencies, etc.	-	-	X
domestic services	-	-	X
recreational and sporting facilities and events	-	-	X
educational institutions	-	-	X

(8.0) REGULATION 8. EMISSION REDUCTION PLANS (ERP)

8.1 Any person responsible for the operation of an emission source as set forth in Regulation 7 of these regulations or any other emission source when requested by the Department in writing to do so shall prepare standby Emissions Reduction Plans (ERP) to reduce or eliminate emissions of air contaminants.

8.2 Standby Emissions Reduction Plans required by Section 8.1 shall be in writing and shall identify the sources of air contaminants, the approximate amount of reduction of contaminants, and a brief description of the manner in which the reduction will be achieved.

8.3 ERPs Submittal and Approval

8.3.1 Standby plans (ERPs) required by Regulation 8.2 shall be submitted to the Department upon request within thirty (30) days of the receipt of such request.

8.3.2 Standby plans (ERPs) shall be subject to review and approval by the Department. And if, in the opinion of the Department, any ERP is inadequate, the Department shall disapprove the plan and request the preparation of an amended plan. The Department shall give the reasons for disapproval and shall require resubmittal of the plan within a reasonable period of time as determined by the Department.

8.4 During a declared Air Pollution Episode, standby ERPs as required by Regulation 8.2 shall be made available on the premises to any person authorized to enforce the provisions of these regulations and the person responsible for the operation of the emissions source shall be responsible for its implementation.

8.5 Any person responsible for the operation of stationary emission source having a capability of emitting 100 tons or more per year of sulfur dioxide, nitrogen dioxide, particulates, carbon monoxide, or hydrocarbons shall be subject to the provisions of Regulations 8.1, 8.2, 8.3, and 8.4.

8.6 Any person subject to the provisions of Regulation 8.5 shall submit an appropriate approvable ERP to the Department on or before July 1, 1972, for the Department's review and approval prior to its being submitted to the Administrator of the Environmental Protection Agency in compliance with the provisions of Section 420. 16(c)(2) of Part 420 of Chapter IV, Title 42, Code of Federal Regulations.

(8.0) REGULATION 9. PROHIBITION OF AIR POLLUTION

9.1 During a declared Air Pollution Episode, no person having control of any emission source located in the designated area of the Air Pollution Episode shall knowingly cause, suffer, allow, or permit the operation of said source in violation of any of the provisions of any of the "Regulations (of the Department) for the Control of Air Pollution" in any of the six "Air Pollution Control Districts" in the Commonwealth.

(8.0) REGULATIONS 10 - 14

(No Regulations)

(8.0) REGULATION 15. AIR POLLUTION INCIDENT EMERGENCY (APIE)

15.1 The Commissioner shall declare an Air Pollution Incident Emergency if, in his opinion, such is deemed advisable to prevent or abate an imminent and substantial endangerment to the public health.

15.2 By nature of Air Pollution Incident Emergencies, as defined, APIE's do not lend themselves to specific preplanned strategies for the specific emission sources as in the case of Air Pollution Episodes.

15.3 Upon declaration of an Air Pollution Incident Emergency the Commissioner and his designees shall assume and exercise such authority and powers as are provided in Section 2B of Chapter 111 of the General Laws and as the Commissioner or his designees may deem necessary to effect a prevention or an abatement of the conditions which occasioned his declaration of the APIE.

15.4 Appropriate agencies of the Commonwealth and political subdivisions thereof shall cooperate with the Commissioner and his designees in efforts to effect the prevention or abatement of the Air Pollution Incident Emergency.

15.5 Steps taken by any person to effect or assist in the prevention or abatement of an ir Pollution Incident Emergency shall not be proof conclusive in any action to establish responsibility for the event or happening that occasioned the APIE and shall not prejudice his rights under the law.

REGULATIONS 16 - 19

(No Regulations)

(5.0) REGULATION 20. VARIANCES

The Department, upon its own initiative or upon application to it by any person, after due notice and a public hearing, may vary any of these regulations as it may deem necessary for the public good or to allay undue hardship. Variances, when granted, shall be in writing. The applicant shall assume all costs such as, but not limited to, the publishing of legal notices incidental to the application for and granting of a variance.

(16.0) REGULATION 21. HEARINGS

The Department will grant a hearing, upon application in writing for the purpose of reconsideration to any person to whom an Order has been issued, provided that such application is made within ten (10) days of the receipt of the Order.

(15.0) REGULATION 22. ENFORCEMENT PROVISIONS

22.1 Any official of any police department or agency, fire department or agency, or health agency of the Commonwealth or political subdivision thereof is hereby authorized to enforce, as provided for in Section 28 and/or Section 142B of Chapter 111, Regulations 7, 8.4 and 9 of these regulations.

REGULATIONS 23 - 29

(No Regulations)

(2.0) REGULATION 30. SEVERABILITY

30.1 Each of these regulations shall be construed as separate to the end that if any regulation or sentence, clause, or phrase thereof shall be held invalid for any reason, the remainder of that regulation and all other regulations shall continue in full force.

FEDERALLY PROMULGATED REGULATIONS

(10.0) 52.1124 Review of New or Modified Indirect Sources

(b) Regulation for Review of New or Modified Indirect Sources

(1) All terms used in this paragraph but not specifically defined below shall have the meaning given them in 52.01 of this chapter.

(i) The term "indirect source" means a facility, building, structure, or installation which attracts or may attract mobile source activity that results in emissions of a pollutant for which there is a national standard. Such indirect sources include, but are not limited to:

(a) Highways and roads.

(b) Parking facilities.

(c) Retail, commercial and industrial facilities.

(d) Recreation, amusement, sports and entertainment facilities.

(e) Airports.

(f) Office and Government buildings.

(g) Apartment and condominium buildings.

(h) Education facilities.

(ii) The term "Administrator" means the Administrator of the Environmental Protection Agency or his designated agent.

(iii) The term "associated parking area" means a parking facility or facilities owned and/or operated in conjunction with an indirect source.

(iv) The term "aircraft operation" means an aircraft take-off or landing.

(v) The phrase "to commence construction" means to engage in a continuous program of on-site construction including site clearance, grading, dredging, or land filling specifically designed for an indirect source in preparation for the fabrication, erection, or installation of the building components of the indirect source. For the purpose of this paragraph, interruptions resulting from acts of God, strikes, litigation, or other matters beyond the control of the owner shall be disregarded in determining whether a construction or modification program is continuous.

(vi) The phrase "to commence modification" means to engage in a continuous program of on-site modification, including site clearance, grading, dredging, or land filling in preparation for specific modification of the indirect source.

(vii) The term "highway section" means the development proposal of a highway of substantial length between logical termini (major crossroads, population centers, major traffic generators, or similar major highway control elements) as normally included in a single location study or multi-year highway improvement program as set forth in 23 CFR 770.201 (38 FR 31677).

(viii) The term "highway project" means all or a portion of a highway section which would result in a specific construction contract.

(ix) The term "Standard Metropolitan Statistical Area (SMSA)" means such areas as designated by the U.S. Bureau of the Budget in the following publication: "Standard Metropolitan Statistical Area," issued in 1967, with subsequent amendments.

(2) The requirements of this paragraph are applicable to the following:

(i) In an SMSA:

(a) Any new parking facility or other new indirect source with an associated parking area, which has a new parking capacity of 1,000 cars or more; or

(b) Any modified parking facility, or any modification of an associated parking area, which increases parking capacity by 500 cars or more; or

(c) Any new highway project with an anticipated average annual daily traffic volume of 20,000 or more vehicles per day within ten years of construction; or

(d) Any modified highway project which will increase average annual daily traffic volume by 10,000 or more vehicles per day within ten years after modification.

(ii) Outside an SMSA:

(a) Any new parking facility, or other new indirect source with an associated parking area, which has a parking capacity of 2,000 cars or more; or

(b) Any modified parking facility, or any modification of an associated parking area, which increases parking capacity by 1,000 cars or more.

(iii) Any airport, the construction or general modification program of which is expected to result in the following activity within ten years of construction or modification:

(a) New airport: 50,000 or more operations per year by regularly scheduled air carriers, or use by 1,600,000 or more passengers per year.

(b) Modified airport: Increase of 50,000 or more operations per year by regularly scheduled air carriers over the existing volume of operations, or increase of 1,600,000 or more passengers per year.

(iv) Where an indirect source is constructed or modified in increments which individually are not subject to review under this paragraph, and which are not part of a program of construction or modification in planned incremental phases approved by the Administrator, all such increments commenced after December 31, 1974, or after the latest approval hereunder, whichever date is most recent, shall be added together for determining the applicability of this paragraph.

(3) No owner or operator of an indirect source subject to this paragraph shall commence construction or modification of such source after December 31, 1974, without first obtaining approval from the Administrator. Application for approval to construct or modify shall be by means prescribed by the Administrator, and shall include a copy of any draft or final environmental impact statement which has been prepared pursuant to the National Environmental Policy Act (42 U.S.C. 4321). If not included in such environmental impact statement, the Administrator may request the following information:

(i) For all indirect sources subject to this paragraph, other than highway projects:

(a) The name and address of the applicant.

(b) A map showing the location of the site of indirect source and the topography of the area.

(c) A description of the proposed use of the site, including the normal hours of operation of the facility, and the general types of activities to be operated therein.

(d) A site plan showing the location of associated parking areas, points of motor vehicle ingress and egress to and from the site and its associated parking areas, and the location and height of buildings on the site.

(e) An identification of the principal roads, highways, and intersections that will be used by motor vehicles moving to or from the indirect source.

(f) An estimate, as of the first year after the date the indirect source will be substantially complete and operational, of the average daily traffic volumes, maximum traffic volumes for one-hour and eight-hour periods, and vehicle capacities of the principal roads, highways, and intersections identified pursuant to subdivision (i) (e) of this subparagraph located within one-fourth mile of all boundaries of the site.

(g) Availability of existing and projected mass transit to service the site.

(h) Where approval is sought for indirect sources to be constructed in incremental phases, the information required by this subparagraph (3) shall be submitted for each phase of the construction project.

(i) Any additional information or documentation that the Administrator deems necessary to determine the air quality impact of the indirect source, including the submission of measured air quality data at the proposed site prior to construction or modification.

(ii) For airports:

(a) An estimate of the average number and maximum number of aircraft operations per day by type of aircraft during the first, fifth and tenth years after the date of expected completion.

(b) A description of the commercial, industrial, residential and other development that the applicant expects will occur within three miles of the perimeter of the airport within the first five and the first ten years after the date of expected completion.

(c) Expected passenger loadings at the airport.

(d) The information required under subdivisions (i) (a) through (i) of this subparagraph.

(iii) For highway projects:

(a) A description of the average and maximum traffic volumes for one, eight, and 24-hour time periods expected within 10 years of date of expected completion.

(b) An estimate of vehicle speeds for average and maximum traffic volume conditions and the vehicle capacity of the highway project.

(c) A map showing the location of the highway project, including the location of buildings along the right-of-way.

(d) A description of the general features of the highway project and associated right-of-way, including the approximate height of buildings adjacent to the highway.

(e) Any additional information or documentation that the Administrator deems necessary to determine the air quality impact of the indirect source, including the submission of measured air quality data at the proposed site prior to construction or modification.

(iv) For indirect sources other than airports and those highway projects subject to the provisions of paragraph (b) (6) (iii) of this section, the air quality monitoring requirements of paragraph (b) (3) (i) (i) of this section shall be limited to carbon monoxide, and shall be conducted for a period of not more than 14 days.

(4) (i) For indirect sources other than highway projects and airports, the Administrator shall not approve an application to construct or modify if he determines that the indirect source will:

(a) Cause a violation of the control strategy of any applicable state implementation plan; or

(b) Cause or exacerbate a violation of the national standards for carbon monoxide in any region or portion thereof.

(ii) The Administrator shall make the determination pursuant to paragraph (b) (4) (i) (b) of this section by evaluating the anticipated concentration of carbon monoxide at reasonable receptor or exposure sites which will be affected by the mobile source activity expected to be attracted by the indirect source. Such determination may be made by using traffic flow characteristic guidelines published by the Environmental Protection Agency which relate traffic demand and capacity considerations to ambient carbon monoxide impact, by use of appropriate atmospheric diffusion models (examples of which are referenced in Appendix O to Part 51 of this chapter), and/or by any other reliable analytic method. The applicant may (but need not) submit with his application, the results of an appropriate diffusion model and/or any other reliable analytic method, along with the technical data and information supporting such results. Any such results and supporting data submitted by the applicant shall be considered by the Administrator in making his determination pursuant to paragraph (b) (4) (i) (b) of this section.

(5) (i) For airports subject to this paragraph, the Administrator shall base his decision on the approval or disapproval of an application on the considerations to be published as an Appendix to this Part.

(ii) For highway projects and parking facilities specified under paragraph (b) (2) of this section which are associated with airports, the requirements and procedures specified in paragraphs (b) (4) and (6) (i) and (ii) of this section shall be met.

(6) (i) For all highway projects subject to this paragraph, the Administrator shall not approve an application to construct or modify if he determines that the indirect source will:

(a) Cause a violation of the control strategy of any applicable state implementation plan; or

(b) Cause or exacerbate a violation of the national standards for carbon monoxide in any region or portion thereof.

(ii) The determination pursuant to paragraph (b) (6) (i) (b) of this section shall be made by evaluating the anticipated concentration of carbon monoxide at reasonable receptor or exposure sites which will be affected by the mobile source activity expected on the highway for the ten year period following the expected date of completion according to the procedures specified in paragraph (b) (4) (ii) of this section.

(iii) For new highway projects subject to this paragraph with an anticipated average daily traffic volume of 50,000 or more vehicles within ten years of construction, or modifications to highway projects subject to this paragraph which will increase average daily traffic volume by 25,000 or more vehicles within ten years after modification, the Administrator's decision on the approval or disapproval of an application shall be based on the considerations to be published as an Appendix to this Part in addition to the requirements of paragraph (b) (6) (i) of this section.

(7) The determination of the air quality impact of a proposed indirect source "at reasonable receptor or exposure sites", shall mean such locations where people might reasonably be exposed for time periods consistent with the national *ambient air quality standards* for the pollutants specified for analysis pursuant to this paragraph.

(8) (i) Within 20 days after receipt of an application or addition thereto, the Administrator shall advise the owner or operator of any deficiency in the information submitted in support of the application. In the event of such a deficiency, the date of receipt of the application for the purpose of paragraph (b) (8) (ii) of this section shall be the date on which all required information is received by the Administrator.

(ii) Within 30 days after receipt of a complete application, the Administrator shall:

(a) Make a preliminary determination whether the indirect source should be approved, approved with conditions in accordance with paragraphs (b) (9) or (10) of this section, or disapproved.

(b) Make available in at least one location in each region in which the proposed indirect source would be constructed, a copy of all materials submitted by the owner or operator, a copy of the Administrator's preliminary determination, and a copy or summary of other materials, if any, considered by the Administrator in making his preliminary determination; and

(c) Notify the public, by prominent advertisement in a newspaper of general circulation in each region in which the proposed indirect source would be constructed, of the opportunity for written public comment on the information submitted by the owner or operator and the Administrator's preliminary determination on the approvability of the indirect source.

(iii) A copy of the notice required pursuant to this subparagraph shall be sent to the applicant and to officials and agencies having cognizance over the location where the indirect source will be situated, as follows: State and local air pollution control agencies, the chief executive of the city and county; any comprehensive regional land use planning agency; and for highways, any local board or committee charged with responsibility for activities in the conduct of the urban transportation planning process (3-C process) pursuant to 23 U.S.C. 134.

(iv) Public comments submitted in writing within 30 days after the date such information is made available shall be considered by the Administrator in making his final decision on the application. No later than 10 days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The Administrator shall consider the applicant's response in making his final decision. All comments shall be made available for public inspection in at least one location in the region in which the indirect source would be located.

(v) The Administrator shall take final action on an application within 30 days after the close of the public comment period. The Administrator shall notify the applicant in writing of his approval, conditional approval, or denial of the application, and shall set forth his reasons for conditional approval or denial. Such notification shall be made available for public inspection in at least one location in the region in which the indirect source would be located.

(vi) The Administrator may extend each of the time periods specified in paragraphs (b) (8) (ii), (iv), or (v) of this section by no more than 30 days, or such other period as agreed to by the applicant and the Administrator.

(9) (i) Whenever an indirect source as proposed by an owner or operator's application would not be permitted to be constructed for failure to meet the tests set forth pursuant to paragraphs (b) (4) (i), (b) (5) (i), or (b) (6) (i) and (iii) of this section, the Administrator may impose reasonable conditions on an approval related to the air quality aspects of the proposed indirect source so that such source, if constructed or modified in accordance with such conditions, could meet the tests set forth pursuant to paragraphs (b) (4) (i), (b) (5) (i), or (b) (6) (i) and (iii) of this section. Such conditions may include, but not be limited to:

(a) Binding commitments to roadway improvements or additional mass transit facilities to serve the indirect source secured by the owner or operator from governmental agencies having jurisdiction thereof;

(b) Binding commitments by the owner or operator to specific programs for mass transit incentives for employees and patrons of the source; and

(c) Binding commitments by the owner or operator to construct, modify, or operate the indirect source in such a manner as may be necessary to achieve the traffic flow characteristics published by the Environmental Protection Agency pursuant to paragraph (b) (4) (ii) of this section.

(ii) The Administrator may specify that any items of information provided in an application for approval related to the operation of an indirect source which may affect the source's air quality impact shall be considered permit conditions.

(10) Notwithstanding the provisions relating to modified indirect sources contained in paragraph (b) (2) of this section, the Administrator may condition any approval by reducing the extent to which the indirect source may be further modified without resubmission for approval under this paragraph.

(11) Any owner or operator who fails to construct an indirect source in accordance with the application as approved by the Administrator; any owner or operator who fails to construct and operate an indirect source in accordance with conditions imposed by the Administrator under paragraph (b) (9) of this section; any owner or operator who modifies an indirect source in violation of conditions imposed by the Administrator under paragraph (b) (10) of this section; or any owner or operator of an indirect source subject to this paragraph who commences construction or modification thereof after December 31, 1974, without applying for and receiving approval hereunder, shall be subject to the penalties specified under section 113 of the Act and shall be considered in violation of an emission standard or limitation under section 304 of the Act. Subsequent modification to an approved indirect source may be made without applying for permission pursuant to this paragraph only where such modification would not violate any condition imposed pursuant to paragraphs (b) (9) and (10) of this section and would not be subject to the modification criteria set forth in paragraph (b) (2) of this section.

(12) Approval to construct or modify shall become invalid if construction or modification is not commenced within 24 months after receipt of such approval. The Administrator may extend such time period upon satisfactory showing that an extension is justified. The applicant may apply for such an extension at the time of initial application or at any time thereafter.

(13) Approval to construct or modify shall not relieve any owner or operator of the responsibility to comply with the control strategy and all local, State and Federal regulations which are part of the applicable State implementation plan.

(14) Where the Administrator delegates the responsibility for implementing the procedures for conducting indirect source review pursuant to this paragraph to any agency, other than a regional office of the Environmental Protection Agency, the following provisions shall apply:

(i) Where the agency designated is not an air pollution control agency, such agency shall consult the appropriate State or local air pollution control agency prior to making any determination required by paragraphs (b) (4), (5), or (6) of this section. Similarly, where the agency designated does not have continuing responsibilities for land use planning, such agency shall consult with the appropriate State or local land use and transportation planning agency prior to making any determination required by paragraph (b) (9) of this section.

(ii) The Administrator of the Environmental Protection Agency shall conduct the indirect source review pursuant to this paragraph for any indirect source owned or operated by the United States Government.

(iii) A copy of the notice required pursuant to paragraph (b) (8) (ii) (c) of this section shall be sent to the Administrator through the appropriate Regional Office.

(15) In any area in which a "management of parking supply" regulation which has been promulgated by the Administrator is in effect, indirect sources which are subject to review under the terms of such a regulation shall not be required to seek review under this paragraph but instead shall be required to seek review pursuant to such management of parking supply regulation. For purposes of this paragraph, a "management of parking supply" regulation shall be any regulation promulgated by the Administrator as part of a transportation control plan pursuant to the Clean Air Act which requires that any new or modified facility containing a given number of parking spaces shall receive a permit or other prior approval, issuance of which is to be conditioned on air quality considerations.

(16) Notwithstanding any of the foregoing provisions to the contrary, the operation of this paragraph is hereby suspended pending further notice. No facility which commences construction prior to the expiration of the sixth month after the operation of this paragraph is reinstated (as to that type of facility) shall be subject to this paragraph.

(37 FR 10846, May 31, 1972 as amended at 40 FR 28065, July 3, 1975; 40 FR 40160, Sept. 2, 1975)

(12.0) 52.1128 Transportation and land use controls

(a) For purposes of this subpart, the definitions herein are applicable.

(b) Definitions:

(1) "Register" as applied to a motor vehicle, means the licensing of such motor vehicle for general operation on public roads or highways by the appropriate agency of the Federal Government or by the Commonwealth.

(2) "Boston Intrastate Region" means the Metropolitan Boston Intrastate Air Quality Control Region, as defined in 81.19 of this part.

(3) (Reserved)

(4) "Freeze area" means that portion of the Boston Intrastate Region enclosed within the following boundaries: The City of Cambridge; that portion of the City of Boston from the Charles River and the Boston Inner Harbor on north and northeast of pier 4 on Northern Avenue; by the east side of pier 4 to B Street, B Street extension of B Street to B Street, B Street, Dorchester Avenue, and the Preble Street to Old Colony Avenue, then east to the water, then by the water's edge around Columbia Point on various courses generally easterly, southerly, and westerly to the center of the bridge on Morrissey Boulevard, on the east and southeast; then due west to Freeport Street, Freeport Street, Dorchester Avenue, Southeast Expressway, Southampton Street, Reading Street, Island Street, Chadwick Street, Carlow Street, Albany Street, Hunneman Street, Madison Street, Windsor Street, Cabot Street, Ruggles Street, Parker Street, Ward Street, Huntington Avenue, Brookline-Boston municipal boundary, Mountford Street to the Boston University Bridge on the southwest and west; and the Logan International Airport. Where a street or roadway forms a boundary the entire right-of-way of the street is within the freeze area as defined.

(5) "Boston proper" means that portion of the City of Boston, Massachusetts, contained within the following boundaries: The Charles River and Boston Inner Harbor on the northwest, north, and northeast, the Inner Harbor, Fort Point Channel, Fitzgerald Expressway, and the Massachusetts Avenue Expressway access branch on the east and southeast, and Massachusetts Avenue on the west. Where a street or roadway forms a boundary, the entire right-of-way of the street is within the Boston proper area as here defined.

(6) "Regional Administrator" means the Administrator of Region I of the U.S. Environmental Protection Agency.

(7) "Governor" means the Governor of the Commonwealth or the head of such executive office of the Commonwealth as the Governor shall designate as responsible for carrying out specific provisions of this subpart.

(8) "Commonwealth" means the Commonwealth of Massachusetts.

(12.0) 52.1134 Regulation limiting on-street parking by commuters

(a) "On-street parking" means parking a motor vehicle on any street, highway, or roadway, except for legal stops within designated loading zones or areas defined for loading purposes, at or before intersections, as caution, safety and emergencies require, whether or not a person remains in the vehicle.

(b) Commencing on or before June 30, 1974, the Commonwealth, the City of Boston, the City of Cambridge, and administrative bodies of any of them having jurisdiction over any streets, highways, or roadways within the City of Cambridge or Boston proper, and the principal officials and administrative bodies thereof having responsibility over parking of such streets, highways, or roadways, shall adopt all necessary administrative and enforcement procedures and regulations to effect a prohibition of on-street parking within Boston proper between the hours of 7 a.m. and 9:30 a.m., and within the City of Cambridge between the hours of 7 a.m. and 10 a.m., except Saturdays, Sundays and legal holidays. The regulations shall state that violation of the prohibition shall be punishable by a fine of not less than $15. The City of Boston shall at a minimum eliminate 50 percent of on-street parking during the hours specified by January 1, 1976; 66-2/3 percent by September 1, 1976; and 100 percent by March 1, 1977. The City of Cambridge shall at a minimum eliminate 33-1/3 percent of on-street parking during the hours specified by September 30, 1974; 66-2/3 percent by July 1, 1975; and 100 percent by March 1, 1977. Any other affected entity shall at a minimum eliminate 33-1/3 percent of such parking during the hours of 7 a.m. to 10 a.m. by January 1, 1976; 66-2/3 percent by September 1, 1976, and 100 percent by March 1, 1977.

(c) The following classes of vehicles shall be exempt from the requirements of this section, provided that on-street parking by such vehicles is in compliance with local and state regulations:

(1) Vehicles owned by residents of that portion of Boston included within Boston proper that are registered in Boston and display a resident parking sticker for that area issued by the City of Boston;

(2) Vehicles owned by resident of Cambridge that are registered in and parked within Cambridge and display an appropriate parking sticker issued by the City of Cambridge;

(3) Vehicles owned and operated by handicapped persons with HP license plates; and

(4) Vehicles registered as "commercial vehicles" by the Commonwealth and displaying appropriate license plates.

(d) On or before June 30, 1974, no owner or operator of a motor vehicle shall park, or permit the on-street parking of said vehicle within Cambridge or Boston proper except in conformity with the provisions of this section and the measures implementing it.

(e) The Governor and the chief executive of any other governmental entity on which obligations are imposed by paragraph (b) of this section should, on or before April 15, 1974, submit to the Regional Administrator for his approval a detailed statement of the legal and administrative steps selected to effect the prohibition provided for in paragraphs (b) and (d) of this section, and a schedule of implementation consistent with the requirements of this section. Such schedule shall include as a minimum the following:

   (1) Designation of one or more agencies responsible for the administration and enforcement of the program;

   (2) The procedures by which the designated agency will enforce the prohibition provided for in paragraphs (b) and (d) of this section;

   (3) The procedures by which vehicles exempt from the requirements of this section will be marked; and

   (4) A map showing which streets will be subject to the ban according to the schedule of implementation.

(f) Upon a finding that substantial hardship would otherwise be experienced by employees of employment facilities located in Cambridge, the Director of Traffic and Parking of the City of Cambridge may issue special parking stickers to such employees which shall entitle vehicles to park during the hours of the ban. Such stickers shall be valid only for those streets and areas of streets clearly identified on the face of such stickers, shall be issued with preference being given to carpools and vanpools and shall be subject to immediate revocation if the vehicle is cited for a parking violation on a street or area other than those designated. A list of all persons receiving such stickers shall be sent to the Regional Administrator on or before July 1 of each year.

(g) The ban shall not apply to any street space which is subject to metered parking with a maximum allowable time limit of one hour.

(40 FR 25162, June 12, 1975)

(12.0) 52.1135 Regulation for parking freeze

(a) Definitions:

(1) The phrase "to commence construction" means to engage in a continuous program of on-site construction including site clearance, grading, dredging, or land filling specifically designed for a parking facility in preparation for the fabrication, erection, or installation of the building components of the facility. For the purpose of this paragraph, interruptions resulting from acts of God, strikes, litigation, or other matters beyond the control of the owner shall be disregarded in determining whether a construction or modification program is continuous.

(2) The phrase "to commence modification" means to engage in a continuous program of on-site modification including site clearance, grading, dredging, or land filling in preparation for a specific modification of the parking facility.

(3) The phrase "commercial parking space" means a space used for parking a vehicle in a commercial parking facility.

(4) (Reserved)

(5) "Commercial parking facility" (also called "facility") means any lot, garage, building or structure, or combination or portion thereof, on or in which motor vehicles are temporarily parked for a fee, excluding (i) a parking facility, the use of which is limited exclusively to residents (and guests of residents) of a residential building or group of buildings under common control, and (ii) parking on public streets.

(6) "Freeze" means to maintain at all times after October 15, 1973, the total quantity of commercial parking spaces available for use at the same amounts as were available for use prior to said date; Provided, That such quantity may be increased by spaces the construction of which commenced prior to October 15, 1973, or as specifically permitted by paragraphs (n), (p) and (q) of this section; provided further that such additional spaces do not result in an increase of more than 10 percent in the total commercial parking spaces available for use on October 15, 1973, in any municipality within the freeze area or at Logan International Airport ("Logan Airport"). For purposes of the last clause of the previous sentence, the 10 percent limit shall apply to each municipality and Logan Airport separately.

(b) (Reserved)

(c) There is hereby established a freeze, as defined by paragraph (a) (6) of this section, on the availability of commercial parking facilities in the freeze area effective October 15, 1973. In the event construction in any municipality, commenced prior to October 15, 1973, results in a number of spaces which exceeds the 10 percent limit prescribed by paragraph (a) (6) of this section, then the Governor shall immediately take all necessary steps to assure that the available commercial spaces within such municipality shall be reduced to comply with the freeze. In the event that such limit is exceeded at Logan Airport, then the provisions of paragraph (m) of this section shall apply.

(d) (Reserved)

(e) After August 15, 1973, no person shall commence construction of any commercial parking facility or modification of any such existing facility in the freeze area unless and until he has obtained from the Governor or from an agency approved by the Governor a permit stating that construction or modification of such facility will be in compliance with the parking freeze established by paragraph (c) of this section. This paragraph shall not apply to any proposed parking facility for which a general construction contract was finally executed by all appropriate parties on or before August 15, 1973.

(f) The Governor shall notify the Regional Administrator in writing within 10 days of approval of any agency pursuant to paragraph (e) of this section. In order for any agency to be approved by the Governor for purposes of issuing permits pursuant to paragraph (e) of this section, such agency shall demonstrate to the satisfaction of the Governor that:

  (1) Requirements for permit application and issuance have been established. Such requirements shall include but not be limited to a condition that before a permit may be issued the following findings of fact or factually supported projections must be made:

    (i) The location of the facility; and

    (ii) The total motor vehicle capacity before and after the proposed construction or modification of the facility.

  (2) Criteria for issuance of permits have been established and published. Such criteria shall include, but not be limited to:

    (i) Full consideration of all facts contained in the application.

(ii) Provisions that no permit will be issued if construction or modification of the facility will not comply with the requirements of paragraph (c) of this section.

(3) Agency procedures provide that no permit for the construction or modification of a facility covered by this section shall be issued without notice and opportunity for public hearing. The public hearing may be of a legislative type; the notice shall conform to the requirements of 40 CFR 51.4(b); and the agency rules or procedures may provide that if no notice of intent to participate in the hearing is received from any member of the public (other than the applicant) prior to 7 days before the scheduled hearing date, no hearing need be held. If notice of intent to participate is required, the fact shall be noted prominently in the required hearing notice.

(g)-(l) (Reserved)

(m) On or before January 30, 1975, the Massachusetts Port Authority ("Massport") shall prepare and submit to the Governor for his approval a plan showing the manner in which the number of commercial parking spaces at Logan Airport which exceeds the number of such spaces permitted under the freeze shall be removed from use. The Governor shall approve such plan if he determines that (1) implementation of such plan would result in reducing the aggregate number of commercial parking spaces to the level of such spaces permitted by this section, (2) Massport has adequate legal authority to implement such plan and (3) adequate commitments have been made by Massport to assure the Governor that such plan will be fully implemented and maintained on and after May 1, 1976. In the event that the Governor does not approve such plan by April 1, 1976, then the owner or operator of each commercial parking facility located at Logan Airport shall, on or before July 1, 1976, reduce the number of commercial parking spaces available for use at each such facility by an amount which bears the same proportion to the number of spaces exceeding the limit imposed by this section as the number of spaces available at such facility bears the total number of such spaces which were available for use at Logan Airport on April 1, 1976.

(n) Where an agency approved by the Governor under paragraph (e) of this section to issue permits for new construction in the City of Cambridge demonstrates to the satisfaction of the Governor that (1) specific on-street parking spaces in use as of October 15, 1973, were being legally and regularly used as of such date for parking by commuters (as that term is defined in 52.1161(a) (6)) who are not residents of Cambridge and that (2) effective measures have been implemented (including adequate enforcement) to prevent such spaces from being used by such commuters, then such approved agency may issue permits for construction of additional new commercial parking spaces equal to one-half of the number of spaces removed from regular use by such commuters and the total quantity of commercial parking spaces allowable in Cambridge under this section shall be raised accordingly.

(o) On or before July 31, 1976, and on or before each succeeding July 31, the Governor and the chief executive officer of any agency approved by the Governor under paragraph (e) of this section shall submit a report to the Regional Administrator setting forth:

(1) The names and addresses of all persons who received permits during the previous twelve-month period ending June 30 and number of spaces allocated to each such person;

(2) The number of commercial parking spaces available for use as of the June 30 prior to the date of the report;

(3) The number of commercial parking spaces which remain available for allocation by the Governor or such agency as of the June 30 prior to the date of the report, including those spaces made available because of retirement of existing commercial parking spaces as well as those spaces made available because of the effects of paragraphs (n), (p) and (q) of this section; and

(4) The location and capacity of any park-and-ride facility designated under paragraph (p) of this section.

(p) The Governor and any approved agency may issue a permit to construct a commercial parking facility which is designated by the Governor as a park-and-ride facility to be operated in conjunction with mass transit service without regard to the limitations on number of spaces imposed by this section.

(q) Where an agency approved by the Governor can demonstrate to the satisfaction of the Governor that there have been physically eliminated through permanent modification or demolition any legal on-street parking spaces within a municipality then such agency may issue permits for construction within that municipality of additional new commercial parking spaces equal to the number of spaces thus eliminated and the total quantity of commercial parking spaces allowable for such municipality under this section shall be increased accordingly.

(r) The provisions of this regulation shall cease to be effective as to that portion of the freeze area lying within the City of Boston and not included within Boston proper or Logan Airport at such time as the City of Boston implements a program, approved by the Governor, which shall include effective measures to control the construction of additional commercial parking spaces within that area, including procedures for issuance of conditional use permits under applicable zoning regulations and for assuring compliance with all air quality requirements under state and Federal law.

(40 FR 25162, June 12, 1975, as amended at 40 FR 39863, Aug. 29, 1975).

52.1136 (Reserved)

52.1137 (Reserved)

(12.0) 52.1138 Regulation for computer carpool matching

(a) "Carpool matching" means assembling lists of commuters with similar daily travel patterns and providing a mechanism by which persons on such lists may be put in contact with each other for the purpose of forming carpools.

(b) This section is applicable in the Boston Intrastate Region.

(c) The Governor shall establish a program for encouraging employers and educational institutions to set up carpool matching programs within facilities under their control. The program shall provide for:

(1) The distribution to each employer or educational facility subject to 52.1161 by August 31, 1975, of a manual adequately showing how to establish and maintain a carpool program;

(2) A computer program available by July 15, 1975, to any such employer or educational institution or group for the purpose of carpool matching by use of such computer program;

(3) Processing by the Commonwealth beginning July 15, 1975, of any set of properly prepared computer cards for 400 or more commuters submitted by any such employer or educational institution or group and distributing the results of any computer carpool matching only to such persons; and

(4) Necessary guidance and technical consulting to the affected facilities subject to 52.1161(b) (7) available by July 15, 1975, in order to initiate and maintain the carpooling program.

(12.0) 52.1139 Preferential bus/carpool treatment

(a)-(h) (Reserved)

(i) On or before December 31, 1976, the Commonwealth shall perform and complete feasibility studies on incentive measures involving preferential bus and carpool treatment and other measures designed to reduce emissions by vehicles in the Boston Intrastate Region. Such measures shall include, but are not limited to:

(1) Alternative mechanisms for bus/carpool preferential treatment.

(i) Such mechanisms shall include, but are not limited to:

(A) Exclusive bus-carpool lanes, including wrong-way bus/carpool lanes; and
(B) Restriction of the downtown on and off ramps for use only by buses and carpools during commuting hours (off ramps between 6:30 a.m. and 9:30 a.m., and on ramps between 3:30 p.m. and 6:30 p.m.).

(ii) Such mechanisms should be considered for use in the following generally-deined corridors, or whatever combination of listed and/or other routes as the study may determine to be feasible (listed routes end at Massachusetts Route 128, unless otherwise noted):

(A) Northeast Corridor: U.S. Route 1 and C-1, and Interstate Route 95; Massachusetts Route 1-A and 107 (to Lynn);
(B) North Corridor: U.S. Interstate Route 93; Massachusetts Route 28 (to Stoneham); McGrath-O'Brien Highway; Mystic Valley Parkway (to Winchester);
(C) Northwest Corridor: Massachusetts Route 2; Massachusetts Avenue (Arlington to Harvard Square); Alewife Brook Parkway; Fresh Pond Parkway;
(D) West Corridor: Massachusetts Turnpike; Massachusetts Route 9 (to Massachusetts Route 16); Memorial Drive; Storrow Drive; Soldiers Field Road;
(E) Southwest Corridor: U.S. Route 1; Arborway; Washington Street (to Massachusetts Route 1);
(F) South Corridor: Massachusetts Route 28 and 136; Tremont Street; Columbus Avenue; Sever Street; Blue Hill Avenue;
(G) Southeast Corridor: Southeast Expressway; Massachusetts Route 128 (from U.S. Interstate Route 95 to the Southeast Expressway); Massachusetts Route 3 (to Massachusetts Route 18); Massachusetts Route 3-A (to Hingham); Massachusetts Route 28; Morrissey Boulevard;
(H) Central Corridor: Central Artery;
(I) North Circumferential Corridor: Massachusetts Route 16/Mystic Valley Parkway;
(J) Circumferential Corridor: Massachusetts Route 128 (from Intersection with U.S. Route 1 in the north to Massachusetts Route 3 in the south); and
(K) Downtown Boston Corridor: Washington Street.

(iii) Factors which should be considered in connection with the feasibility of such mechanisms should include, but are not limited to, the physical characteristics of the roads, existing congestion level of roads, predicted bus volumes, before/after person capacity with and without the bus lane, cumulative net time savings, cost, the usefulness of mechanisms in reducing commuter vehicle miles traveled, the effects of the mechanisms upon parallel rail transit (where applicable) and other costs and benefits to users and non-users.

(2) Toll restructuring on the Massachusetts Turnpike Authority and Massachusetts Port Authority bridges, tunnels, and roads so as to provide incentives for bus and carpool use, such as (but not limited to):

(i) Preferential lanes at toll gates and/or lower fares for buses and carpools;

(ii) Raising tolls during commuting hours so as to collect all revenues during those hours and allowing free usage at other times; and

(iii) Use of one-way toll collection at all toll booths to reduce waiting time.

(j) On or before January 1, 1976 the Commonwealth shall submit to the Regional Administrator a scope of work for each study specified in paragraph (i) of this section. The Commonwealth also shall submit a schedule describing the timing and contributions of agency participants. On or before July 31, 1976, the Commonwealth shall submit to the Regional Administrator preliminary drafts of each such study.

(k) The Commonwealth shall structure the studies so as to ensure the effective participation of all affected state, regional, and local agencies whose areas of jurisdiction would be affected by any matter to be studied, of interested citizen and public interest groups, and of affected cities and towns. Two key agencies that should be involved from the outset are the Joint Regional Transportation Committee and the Central Transportation Planning Staff, which fulfills various Commonwealth and Federal transportation planning requirements, including coordination of the Unified Work Program. Prior to submitting final studies and recommendations to the Regional Administrator, the Commonwealth shall make drafts available to the Regional Administrator and relevant Federal agencies such as the Federal Highway Administration, U.S. Urban Mass Transit Authority ("UMTA"), U.S. Department of Transportation, and Federal Energy Administration. Each affected agency shall have 60 days in which to submit written comments to the Commonwealth. The Commonwealth shall take such comments into account in preparing the final studies for submission to the Regional Administrator. Copies of all comments received shall be submitted to the Regional Administrator.

(1) To the fullest extent possible the bus feasibility studies should be coordinated with the ongoing UMTA planning process, particularly in regard to preparation of the Unified Work Program and to the requirements of section 5(d) (2) of the National Mass Transportation Act of 1974.

(40 FR 25164, June 12, 1975)

(12.0) 52.1140 Regulation for Inspection and maintenance

(a) Definitions:

(1) "Inspection and maintenance program" means a program to reduce emissions from in-use vehicles through identifying vehicles that need emission control-related maintenance and requiring that such maintenance be performed.

(2) "Light-duty vehicle" means a gasoline-powered motor vehicle rated at 6,000 lb GVW or less.

(3) "Medium-duty vehicle" means a gasoline-powered motor vehicle rated at more than 5,000 lb GVW and less than 10,000 lb GVW.

(b) This section is applicable in the Boston Intrastate Region.

(c) The Commonwealth shall establish an inspection and maintenance program applicable to all gasoline powered light-duty and medium-duty vehicles registered in the Boston Intrastate Region that operate on streets and highways over which it has jurisdiction. No later than April 1, 1976, the Commonwealth shall submit legally adopted regulations to the Regional Administrator establishing such a program. Antique motor vehicles designated by the appropriate state registration procedures shall be exempt from the requirements of this section. The regulation shall include:

(1) Provisions for inspection of all such motor vehicles by means of an idle emission test at periodic intervals at least once each year on a rotating schedule which provides for inspection of all such vehicles over a 12-month period with the first segment of such schedule commencing on August 1, 1976.

(2) Provisions for establishing and periodically revising emission limitations approved by the Regional Administrator to be in effect at all times which are designed to achieve an overall annual reduction in vehicular emissions within the Boston Intrastate Region of 11 percent of hydrocarbons and 9 percent of carbon monoxide which would otherwise be emitted.

(3) Provisions to require that failed vehicles receive, within 2 weeks, the maintenance necessary to achieve compliance with the inspection standards. This shall include sanctions against non-complying individual owners and repair facilities, retest of failed vehicles following maintenance, a certification program to insure that repair facilities performing the required maintenance have the necessary equipment, parts and knowledgeable technicians to perform the tasks satisfactorily, and such other measures as may be necessary or appropriate.

(4) A program of enforcement, such as a spot check of idle adjustment, to insure that, following maintenance, vehicles are not subsequently readjusted or modified in such a way as would cause them no longer to comply with the inspection standards. This program shall include appropriate penalties for violation.

(5) Designation of an agency or agencies responsible for conducting, overseeing, and enforcing the inspection and maintenance program.

(d) Commencing August 1, 1976, the State shall not register or allow to operate on its highways any light-duty vehicle or medium-duty vehicle that does not comply with the applicable standards and procedures adopted pursuant to paragraph (c) of this section. This shall not apply to the initial registration of a new motor vehicle.

(e) Commencing August 1, 1976, no owner of a light-duty or medium-duty vehicle shall operate or allow the operation of any such vehicle that does not comply with the applicable standards and procedures adopted pursuant to paragraph (c) of this section. This shall not apply to the initial registration period of a new motor vehicle.

(f) The Commonwealth of Massachusetts shall submit, no later than September 1, 1975, a detailed compliance schedule showing the steps it will take to establish and enforce an inspection and maintenance program pursuant to paragraph (c) of this section, including the text of any needed statutory proposals, and needed regulations that it will propose for adoption. The compliance schedule shall also include:

(1) The date by which the Commonwealth will recommend the needed legislation to the legislature;

(2) The date by which the necessary equipment will be ordered;

(3) A statement from the Governor identifying the sources and amounts of funds for the program. If the program cannot legally be funded or implemented under existing statutory authority, the text of needed legislation must be submitted.

(g) The Commonwealth shall submit, no later than September 1, 1975, the text of any needed statutory proposals or regulations to ensure that the inspection and maintenance system contains safeguards to protect consumers, including (but not limited to):

(1) Upgrading of the current procedures and requirements for certification of inspection stations to provide that the operators and employees performing such work on vehicles are responsible and competent to do so; and

(2) Protection of consumers from loss due to negligent performance of inspection and related maintenance work.

(40 FR 25164, June 12, 1975)

52.1141 - 52.1143 (Reserved)

(12.0) 52.1144 Regulation on evaporative emissions from retail gasoline outlets

(a) "Gasoline" means any petroleum distillate having a Reid vapor pressure of 4 pounds or greater.

(b) This section is applicable in the Boston Intrastate Region. The requirements for this section shall be in effect in accordance with 52.1147.

(c) (1) No person shall transfer gasoline from any delivery vessel into any stationary storage container with a capacity greater than 250 gallons unless such container is equipped with a submerged fill pipe and unless the displaced vapors from the storage container are processed by a system that prevents release to the atmosphere of no less than 90 percent by weight of organic compounds in said vapors displaced from the stationary container location.

(i) The vapor recovery portion of the system shall include one or more of the following:

(a) A vapor-tight return line from the storage container to the delivery vessel and a system that will ensure that the vapor return line is connected before gasoline can be transferred into the container.

(b) A refrigeration-condensation system or equivalent designed to recover no less than 90 percent by weight of the organic compounds in the displaced vapor.

(ii) If a "vapor-tight vapor return" system is used to meet the requirements of this section, the system shall be so constructed as to be readily added on to retrofit with an absorption system, refrigeration-condensation system, or equivalent vapor removal system, and so constructed as to anticipate compliance with 52.1144(d) (1).

(iii) The vapor-laden delivery vessel shall be subject to the following conditions:

(a) The delivery vessel must be so designed and maintained as to be vapor tight at all times.

(b) The vapor-laden delivery vessel may be refilled only at facilities equipped with a vapor recovery system or the equivalent that can recover at least 90 percent by weight of the organic compounds in the vapors displaced from the delivery vessel during refilling.

(2) Gasoline storage compartments of 1,000 gallons or less in gasoline delivery vehicles presently in use on October 15, 1973, will not be required to be retrofitted with a vapor return system until January 1, 1977.

(3) The provisions of this paragraph shall not apply to the following:

(i) Stationary containers having a capacity less than 550 gallons used exclusively for the fueling of implements of husbandry, provided, however, said containers are equipped with submerged fill pipes.

(ii) Any container having a capacity of less than 2,000 gallons installed prior to October 15, 1973.

(iii) Transfers made to storage tanks equipped with floating roofs or their equivalent.

(d) (1) A person shall not transfer gasoline to an automotive fuel tank from gasoline dispensing systems unless the transfer is made through a fill nozzle designed to:

(i) Prevent discharge of hydrocarbon vapors to the atmosphere from either the vehicle filler neck or a dispensing nozzle;

(ii) Direct vapor displaced from the automotive fuel tank to a system wherein at least 90 percent by weight of the organic compounds in displaced vapors are recovered; and

(iii) Prevent automotive fuel tank overfills or spillage on fill nozzle disconnect.

(2) The system referred to in paragraph (d) (1) of this section can consist of a vapor-tight vapor return line from the fill nozzle-filler neck interface to the dispensing tank, to an adsorption, absorption, incineration, or refrigeration-condensation system or equivalent.

(3) Components of the system required by paragraph (c) (1) of this section can be used for compliance with this paragraph.

(4) If it is demonstrated to the satisfaction of the Administrator that it is impractical to comply with the provisions of paragraph (d) (1) of this section as a result of fill neck configuration, location, or other design features of a class of vehicles, the provisions of paragraph (d) (1) shall not apply to such vehicles. However, in no case shall such configuration exempt any gasoline dispensing facility from installing a system required by paragraph (d) (1) of this section.

(38 FR 30969, Nov. 8, 1973)

(50.4) 52.1145 Regulation on organic solvent use

(a) Definitions:

(1) "Organic solvents" include diluents and thinners and are defined as organic materials which are liquids at standard conditions and which are used as dissolvers, viscosity reducers, or cleaning agents, except that such materials which exhibit a boiling point higher than 220°F. at 0.5 millimeters of mercury absolute pressure or having an equivalent vapor pressure shall not be considered to be solvents unless exposed to temperatures exceeding 220°F.

(2) "Solvent of high photochemical reactivity" means any solvent with an aggregate of more than 20 percent of its total volume composed of the chemical compounds classified below or which exceeds any of the following individual percentage composition limitations in reference to the total volume of solvent:

(i) A combination of hydrocarbons, alcohols, aldehydes, esters, ethers, or ketones having an olefinic or cyclo-olefinic type of unsaturation: 5 percent;

(ii) A combination of aromatic compounds with eight or more carbon atoms to the molecule except ethylbenzene: 8 percent;

(iii) A combination of ehtylbenzene, ketones having branched hydrocarbon structures, trichloroethylene or toluene: 20 percent. Whenever any organic solvent or any constituent of an organic solvent may be classified from its chemical structure into more than one of the above groups of organic compounds, it shall be considered as a member of the most reactive chemical group, that is, that group having the least allowable percentage of total volume of solvents.

(3) "Organic materials" are chemical compounds of carbon excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, metallic carbonates, and ammonium carbonate.

(b) This section is applicable throughout the Boston Intrastate Region. The requirements of this section shall be in effect in accordance with 52.1147.

(c) No person shall cause, allow, suffer, or permit the discharge into the atmosphere of more than 15 pounds of organic materials in any 1 day, nor more than 3 pounds of organic materials in any 1 hour, from any article, machine, equipment, or other contrivance, in which any organic solvent or any material containing organic solvent comes into contact with flame or is baked, heat-cured, or heat-polymerized, in the presence of oxygen, unless said discharge has been reduced as a result of the installation of abatement controls by at least 85 percent. Those portions of any series of articles, machines, equipment, or other contrivances designed for processing a continuous web, strip, or wire that emit organic materials and use operations described in this section shall be collectively subject to compliance with this section.

(d) No person shall cause, suffer, allow, or permit the discharge into the atmosphere of more than 40 pounds of organic materials in any 1 day, nor more than 8 pounds in any 1 hour, from any article, machine, equipment, or other contrivance used under conditions other than described in paragraph (c) of this section for employing, or applying any solvent of high photochemical reactivity or material containing such photochemically reactive solvent, unless said discharge has been reduced as a result of the installation of abatement controls by at least 85 percent. Emissions of organic materials into the atmosphere resulting from air or heated drying of products for the first 12 hours after their removal from any article, machine, equipment or other contrivance, described in this section shall be included in determining compliance with this section. Emissions resulting from baking, heat-curing, or heat-polymerizing as described in paragraph (c) of this section shall be excluded from determination of compliance with this section. Those portions of any series of articles, machines, equipment, or other contrivances designed for processing a continuous web, strip, or wire that emit organic materials and use operations described in this section shall be collectively subject to compliance with this section.

(e) Emissions of organic materials to the atmosphere from the clean-up with a solvent of high photochemical reactivity, or any article, machine, equipment, or other contrivance described in paragraph (c) or (d), or in this paragraph, shall be included with the other emissions of organic materials from that article, machine, equipment or other contrivance for determining compliance with this section.

(f) No person shall cause, suffer, allow, or permit during any one day disposal of a total of more than 1.5 gallons of any solvent of high photochemical reactivity, or of any material containing more than 1.5 gallons of any such photochemically reactive solvent by any means that will permit the evaporation of such solvent into the atmosphere.

(g) Emissions of organic materials into the atmosphere required to be controlled by paragraph (c) or (d) of this section shall be reduced by:

  (1) Incineration, provided that 90 percent or more of the carbon in the organic material being incinerated is converted to carbon dioxide, or

  (2) Adsorption, or

  (3) The use of other abatement control equipment determined by the Regional Administrator to be no less effective than either of the above methods.

(h) A person incinerating, adsorbing, or otherwise processing organic materials pursuant to this section shall provide, properly install and maintain in calibration, in good working order, and in operation, devices as specified in the authority to construct, or as specified by the Regional Administrator, for indicating temperatures, pressures, rates of flow, or other operating conditions necessary to determine the degree and effectiveness of air pollution control.

(i) Any person using organic solvents or any materials containing organic solvents shall supply the Regional Administrator upon request and in the manner and form prescribed by him, written evidence of the chemical composition, physical properties, and amount consumed for each organic solvent used.

(j) The provisions of this rule shall not apply to:

  (1) The manufacture of organic solvents, or the transport or storage of organic solvents or materials containing organic solvents.

  (2) The spraying or other use of insecticides, pesticides, or herbicides.

  (3) The employment, application, evaporation, or drying of saturated halogenated hydrocarbons or perchloroethylene.

  (4) The use of any material, in any article, machine, equipment or other contrivance described in paragraph (c), (d), or (e) of this section if:

    (i) The volatile content of such material consists only of water, and organic solvents;

    (ii) The organic solvents comprise not more than 30 percent by volume of said volatile content;

    (iii) The volatile content is not a solvent of high photochemical reactivity as defined in paragraph (a) of this section; and

(iv) The organic solvent or any material containing organic solvent does not come into contact with flame. This last stipulation applies only for those articles, machines, equipment or other contrivances that are constructed or modified after November, 1973.

(5) The use of any material, in any article, machine, equipment, or other contrivance described in paragraph (c), (d), or (e) of this section if:

(i) The organic solvent content of such material does not exceed 30 percent by volume of said material;

(ii) The volatile content is not a solvent of high photochemical reactivity; and

(iii) (Reserved)

(iv) The organic solvent or any material containing organic solvent does not come into contact with flame. This last stipulation applies only for those articles, machines, equipment or other contrivances that are constructed or modified after November 8, 1973.

(6) (Reserved)

(7) An article, machine, equipment or other contrivance described in paragraphs (c), (d) or (e) of this section used exclusively for chemical or physical analyses or determination of product quality and commercial acceptance provided that:

(i) The exemption is approved in writing by the Regional Administrator;

(ii) The operator of said article, machine, equipment or contrivance is not an integral part of the production process; and

(iii) The emissions from said article, machine, equipment or other contrivance do not exceed 800 lbs. in any calendar month.

(k) (Reserved)

(1) All determinations of emission rates shall be conducted in a manner approved in writing by the Regional Administrator.

(40 FR 25165, June 12, 1975)

(51.21) 52.1146 Regulation on architectural coatings

(a) "Architectural coating" means a coating used for buildings and their appurtenances.

(b) This regulation is applicable within the Boston Intrastate Region. All sources subject to this section shall be in compliance with paragraphs (c), (d), and (e) of this section on or before January 1, 1975.

(c) No person shall sell or offer for sale, for use within the Boston Intrastate Region, in containers of 1 quart capacity or larger, any architectural coating containing a solvent of high photochemical reactivity as defined in 52.1145(a) (2).

(d) No person shall employ, apply, evaporate, or dry any architectural coating purchased in containers of 1 quart capacity or larger, containing a solvent of high photochemical reactivity.

(e) No person shall thin or dilute any architectural coating with a solvent of high photochemical reactivity.

(38 FR 30970, Nov. 8, 1973)

(6.0) 52.1147 Federal compliance schedules

(a) Except as provided in paragraph (c) of this section, the owner or operator of a source subject to regulation under paragraph (c) (1) of 52.1144 and 52.1145 shall comply with the increments of progress contained in the following schedule:

(1) Final control plans for emission control systems or process modifications must be submitted on or before June 1, 1974, for sources subject to 52.1144(c), (1) and on or before May 1, 1974 for sources subject to 52.1145.

(2) Contracts for emission control systems or process modifications must be awarded or orders must be issued for the purchase of component parts to accomplish emission control or process modifications on or before March 1, 1975, for sources subject to 52.1144(c) (1) and on or before July 1, 1974, for sources subject to 52.1145.

(3) Initiation of on-site construction or installation of emission control equipment or process modification must begin on or before May 1, 1975, for sources subject to 52.1144(c) (1) and on or before August 15, 1974, for sources subject to 52.1145.

(4) On-site construction or installation of emission control equipment or process modification must be completed prior to April 15, 1975, except for purposes of paragraph (c) (1) of 52.1144, the applicable date shall be February 1, 1976.

(5) Final compliance is to be achieved prior to May 31, 1975, except for sources subject to paragraph (c) (1) of 52.1144 of this subpart. Final compliance for sources subject to paragraph (c) (1) of 52.1144 is to be achieved by June 1, 1976.

  (i) Facilities subject to (c) (1) (iii) of 52.1144 of this subpart which have a daily throughput of 20,000 gallons of gasoline or less are required to have a vapor recovery system in operation no later than May 31, 1977. Delivery vessels and storage containers served exclusively by facilities required to have a vapor recovery system in operation no later than May 31, 1977, also are required to meet the provisions of this section no later than May 31, 1977.

(6) Any owner or operator of stationary sources subject to compliance schedule in this subparagraph shall certify to the Administrator within 5 days after the deadline for each increment of progress, whether or not the required increment of progress has been met.

(7) Any gasoline dispensing facility subject to paragraph (c) (1) of 52.1144 which installs a storage tank after October 15, 1973, shall comply with such paragraph by March 1, 1976. Any facility subject to such paragraph which installs a storage tank after March 1, 1976 shall comply with such paragraph at the time of installation.

(b) Except as provided in paragraph (d) of this section, the owner or operator of a source subject to paragraph (d) (1) of 52.1144 shall comply with the increments of progress contained in the following compliance schedule:

(1) Final control plans for emission control systems or process modifications must be submitted prior to January 1, 1975.

(2) Contracts for emission control systems or process modifications must be awarded or orders must be issued for the purchase of component parts to accomplish emission control or process modification prior to March 1, 1975.

(3) Initiation of on-site construction or installation of emission control equipment or process modification must begin not later than May 1, 1975.

(4) On-site construction or installation of emission control equipment or process modification must be completed prior to May 1, 1977.

(5) Federal compliance is to be achieved prior to May 31, 1977.

(6) Any owner or operator of stationary sources subject to the compliance schedule in this subparagraph shall certify to the Administrator, within 5 days after the deadline for each increment of progress, whether or not the required increment of progress has been met.

(7) Any gasoline dispensing facility subject to paragraph (d) (1) of 52.1144 which installs a gasoline dispensing system after the effective date of this regulation shall comply with the requirements of such paragraph by May 31, 1977. Any facility subject to such paragraph which installs a gasoline dispensing system after May 31, 1977, shall comply with such paragraph at the time of installation.

(c) Paragraph (a) of this section shall not apply:

(1) To a source which is presently in compliance with all requirements of paragraph (c) (1) of 52.1144 and 52.1145 and which has certified such compliance to the Administrator by June 1, 1974. The Administrator may request whatever supporting information he considers necessary for proper certification.

(2) To a source for which a compliance schedule is adopted by the Commonwealth and approved by the Administrator.

(3) To a source subject to 52.1144 (c) (1) whose owner or operator submits to the Administrator by June 1, 1974, a proposed alternative compliance schedule. No such schedule may provide for compliance after March 1, 1976. If promulgated by the Administrator, such schedule shall satisfy the requirements of this paragraph for the affected source.

(4) To a source subject to 52.1145 whose owner or operator submits to the Administrator by May 1, 1974, a proposed alternative compliance schedule. No such schedule may provide for compliance after May 31, 1975. If promulgated by the Administrator, such schedule shall satisfy the requirements of this paragraph for the affected source.

(d) Paragraph (b) of this section shall not apply:

(1) To a source which is presently in compliance with paragraph (d) (1) of 52.1144 and which has certified such compliance to the Administrator by January 1, 1975. The Administrator may request whatever supporting information he considers necessary for proper certification.

(2) To a source for which a compliance schedule is adopted by the State and approved by the Administrator.

(3) To a source whose owner or operator submits to the Administrator by June 1, 1974, a proposed alternative schedule. No such schedule may provide for compliance after May 31, 1977. If promulgated by the Administrator, such schedule shall satisfy the requirements of this paragraph for the affected source.

(e) Nothing in this paragraph shall preclude the Administrator from promulgating a separate schedule for any source to which the application of the compliance schedule in paragraphs (a) or (b) of this section fails to satisfy and requirements of 40 CFR 51.15 (b) and (c).

(38 FR 30970, Nov. 8, 1973, as amended at 39 FR 4881, Feb. 8, 1974; 39 FR 41253, Nov. 26, 1974; 41 FR 10224, Mar. 10, 1976)

Note: The compliance dates given in paragraphs (b) (1)-(3) were deferred indefinitely at 40 FR 1127, Jan. 6, 1975.

52.1148 Definitions for the purpose of 52.1149 through 52.1155

(a) "Register", as applied to a motor vehicle, means the licensing of such motor vehicle for general operation on public roads or highways by the appropriate agency of the Federal Government or by the State.

(b) "Interstate Region" means the Massachusetts portion of the Hartford-New Haven-Springfield Interstate Air Quality Control Region as defined in 81.19 of this title.

(c) "Off-street parking facility" means any facility, building, structure, or lot, or portion thereof used primarily for temporary storage of motor vehicles.

(d) "Zone 1" means that portion of the City of Springfield, Massachusetts contained within the following boundaries: The Connecticut River on the west; the railroad track on the north (near Lyman Street); Chestnut and Maple Streets on the east; and Stockbridge and Bliss Streets on the south. Where a street or a roadway is a boundary, the entire right-of-way of the street is within Zone 1 as here defined.

(e) "Zone 2" means that portion of the City of Springfield, Massachusetts contained within the following boundaries: The Connecticut River on the west; Bliss and Stockbridge Streets on the north; Maple, Pine, Windsor, Knox, Mill, and Dickinson Streets on the east; Woodside Terrace, Forrest Park Avenue, Leete Street, and Longhill Street on the south. Where a street or roadway is a boundary, the entire right-of-way of the street is within Zone 2 as here defined.

(38 FR 30839, Nov. 7, 1973)

(12.0) 52.1149 Regulation limiting on-street parking

(a) "On-street parking" means stopping a motor vehicle on any street, highway, or roadway (except for legal stops at or before intersections and as caution and safety require) whether or not a person remains in the vehicle and all such stops when the driver does not remain in the vehicle.

(b) Commencing on or before July 1, 1974, the Commonwealth of Massachusetts and the City of Springfield and any political subdivision or administrative bodies of either having jurisdiction over any states, highways, or roadways within Zone 1, shall adopt all necessary administrative and enforcement procedures to effect a prohibition of on-street parking within Zone 1 between the hours of 7 a.m. and 10 a.m. except on Saturdays, Sundays, and legal holidays. The regulations shall state that violation of the prohibition shall be punishable by a fine of not less than $50 and removal of the offending vehicle. The limitation on on-street parking shall be conducted in a phased-in manner to be completed by March 1, 1975. Each such governmental entity shall at a minimum eliminate 33-1/3 percent of currency existing on-street parking during the hours specified by September 30, 1974; 66-2/3 percent by December 31, 1974; and 100 percent by March 1, 1975.

(c) Exceptions to this regulation shall be granted for vehicles owned by residents of Zone 1 that are parked near the owner's residence, providing such on-street parking is in compliance with existing parking regulations of the City and Commonwealth. Exemptions of vehicles owned or operated by handicapped persons and disabled veterans (HP and V license plates) may also be granted.

(d) On or after June 30, 1974, no owner of a motor vehicle shall park, or permit the on-street parking of, said vehicle on a street or roadway within Zone 1 except in conformity with the provisions of this section and the measures implementing it.

(e) The Governor of the Commonwealth of Massachusetts, and the chief executive of any other governmental entity on which obligations are imposed by paragraph (b) of this section shall, on or before April 15, 1974, submit to the Administrator for his approval, a detailed statement of the legal and administrative steps chosen to effect the prohibition provided for in paragraphs (b) and (d) of this section, and a schedule of implementation consistent with the requirements of that paragraph. Such schedule shall include as a minimum the following:

(1) Designation of one or more agencies responsible for the administration and enforcement of the program.

(2) The procedures by which the designated agency will enforce the prohibition provided for in paragraphs (b) and (d) of this section.

(3) The procedures by which each car will be marked so that residential vehicles will be exempt from the 7 a.m. to 10 a.m. ban providing such a vehicle is parked within 0.5 mile of the location specified on the registration of the vehicle.

(38 FR 30830, Nov. 7, 1973)

52.1150 (Reserved)

(12.0) 52.1151 Regulation for computer carpool matching

(a) "Carpool matching" means assembling lists of commuters with similar daily travel patterns and providing a mechanism by which persons of such lists may be put in contact with each other for the purpose of forming carpools.

(b) This section is applicable in the Interstate Region.

(c) The Commonwealth of Massachusetts shall establish a computer-aided carpool matching system that is conveniently available to the general public and to all employees of employers having more than 50 employees within the Interstate Region who operate light-duty vehicles on streets and highways over which the Commonwealth has ownership or control. Prior to March 1, 1975, the Commonwealth shall submit legally adopted regulations to the EPA establishing such a system. No provisions of such regulations shall have an effective date later than 3 months from the date of adoption. The regulations shall include:

(1) A method of collecting information that will include the following as a minimum:

(i) Provisions for each affected employee to receive an application form with a cover letter describing the matching program.

(ii) Provision on each application for applicant identification of commuting time, origin, and destination, and the applicant's desire to ride only, drive only, or share driving.

(2) A computer method of matching information that will have provisions for locating each applicant's origin and destination within the Interstate Region; matching applicants with similar origins and destinations travel schedules; and enabling the persons so matched to make contact with each other at the request of any one of them.

(3) A method of providing continuing service such that the matched lists of all applicants are retained and made available for use by new applicants; application forms are currently available; and the master list is periodically updated to remove applicants who no longer meet the governing criteria and add new applicants who do.

(4) Designation of an agency or agencies responsible for operating, overseeing and maintaining the computer carpool matching system.

(d) The Governor of the Commonwealth of Massachusetts shall, on or before April 15, 1974, submit to the Administrator for his approval, a detailed statement of the legal and administrative steps chosen to effect the carpool matching system imposed by this system and a schedule of implementation consistent with the requirements of this section.

(38 FR 30830, Nov. 7, 1973)

(12.0) 52.1152 Regulation for traffic flow improvements

(a) A traffic-responsive, digital-computer-controlled, traffic signal system shall be installed in the Springfield area encompassing Zones 1 and 2. In conjunction with this system a ramp metering system shall be installed to monitor traffic on an appropriate length of Interstate 91. Those two systems shall function together to improve traffic flow within the Springfield downtown area and also to limit VMT within the area, despite the potential traffic capacity increase provided by the system.

(b) The Governor shall, on or before April 15, 1974, submit to the Administrator for his approval, a detailed statement of the steps chosen to implement the actions in paragraph (a) of this section, and a schedule for such implementation that provides, as a minimum, the following:

(1) A date by which detailed plans will be given to EPA indicating the specific system design selected, including the method planned for use in ramp metering. Such date shall be no later than March 1, 1974.

(2) A date by which equipment necessary to implement this program will be ordered.

(3) A date by which the system will become operational. Such date shall be no later than May 31, 1975.

(38 FR 30831, Nov. 7, 1973)

(12.0) 52.1153 Regulation for street closing

(a) A section of Main Street located in the downtown area of Springfield shall be permanently closed to all motor vehicular traffic, with the exception of such vehicles deemed by the Governor of the Commonwealth (and approved by the Administrator) as necessary and vital for the essential exchange of goods and services and of mass transit vehicles. The section of Main Street to be closed shall extend from the railroad overpass at the north to State Street at the south.

Streets intersecting Main Street at strategic points within the regulated section shall also be closed off where possible and necessary to maximize blocksize. A minimum of 15 block lengths of intersecting streets shall be closed. The precise intersecting streets to be regulated will be determined by the State of Massachusetts and the City of Springfield, subject to approval by the Administrator.

(b) The Governor shall, on or before April 15, 1974, submit to the Administrator for his approval a detailed statement of the steps chosen to effect the actions in paragraph (a) of this section, and a schedule for their implementation that provides for their full effectiveness no later than May 31, 1975.

(38 FR 30831, Nov. 7, 1973)

(12.0) 52.1154 Regulation for semiannual inspection and maintenance

(a) Definitions:

(1) "Inspection and maintenance program" means a program to reduce emissions from in-use vehicles through identifying vehicles that need emission control related maintenance and requiring that such maintenance by performed.

(2) "Light-duty Vehicle" means a gasoline-powered motor vehicle rated at 6000 lb. GVW or less.

(3) "Medium-duty vehicle" means a gasoline-powered motor vehicle rated at more than 6000 lb. GVW and less than 10,000 lb. GVW.

(4) All other terms used in this paragraph that are defined in Part 51, Appendix N of this chapter, are used herein with the meaning therein defined.

(b) This section is applicable in the Interstate Region.

(c) The Commonwealth of Massachusetts shall establish an inspection and maintenance program applicable to all gasoline-powered, light-duty and medium-duty vehicles registered in the Interstate Region that operate on streets or highways over which it has ownership or control. No later than April 1, 1974, the Commonwealth shall submit legally adopted regulations to EPA establishing such a program. Antique motor vehicles designated by the appropriate state registration procedures shall be exempt from the requirements of this section. The regulation shall include:

(1) Provisions for inspection of all such motor vehicles at periodic intervals at least twice each year by means of a loaded emission test.

(2) Provisions for inspection failure criteria consistent with the failure of 40 percent of the vehicles tested during the first inspection cycle.

(3) Provisions to require that failed vehicles receive, within 2 weeks, the maintenance necessary to achieve compliance with the inspection standards. This shall include sanctions against non-complying individual owners and repair facilities, retest of failed vehicles following maintenance, a certification program to insure that repair facilities performing the required maintenance have the necessary equipment, parts and knowledgeable operators to perform the tasks satisfactorily, and such other measures as may be necessary or appropriate.

(4) A program of enforcement, such as a spot check of idle adjustment, to ensure that, following maintenance, vehicles are not subsequently readjusted or modified in such a way as would cause them no longer to comply with the inspection standards. This program shall include appropriate penalties for violation.

(5) Designation of an agency or agencies responsible for conducting, overseeing, and enforcing the inspection and maintenance program.

(d) Commencing August 1, 1976, the State shall not register or allow to operate on its highways any light-duty vehicle or medium-duty vehicle that does not comply with the applicable standards and procedures adopted pursuant to paragraph (c) of this section. This shall not apply to the initial registration of a new motor vehicle.

(e) Commencing August 1, 1976, no owner of a light-duty vehicle or medium-duty vehicle shall operate or allow the operation of any such vehicle that does not comply with the applicable standards and procedures adopted pursuant to paragraph (c) of this section. This shall not apply to the initial registration of a new motor vehicle.

(f) The Commonwealth of Massachusetts shall submit, no later than January 1, 1974, a detailed compliance schedule showing the steps it will take to establish and enforce a state-operated inspection and maintenance program pursuant to paragraph (c) of this section, including the text of any needed statutory proposals, and needed regulations that it will propose for adoption. The compliance schedule shall also include:

(1) The date by which the State will recommend the needed legislation to the State legislature;

(2) The date by which the necessary equipment will be ordered;

(3) A statement from the Governor and State Treasurer identifying the sources and amounts of funds for the program. If funds cannot legally be obligated under existing statutory authority, the text of needed legislation must be submitted.

(38 FR 30831, Nov. 7, 1973)

(13.0) 52.1155 Semiannual and quarterly reports

(a) All definitions are as used in 51.19 of this chapter.

(b) This regulation is applicable in the Interstate Region.

(c) The Commonwealth of Massachusetts or an agency designated by the Commonwealth and approved by the Administrator shall monitor the effective emission reductions occurring as a result of the inspection and maintenance program required under 52.1154.

(d) The data submitted pursuant to paragraph (e) of this section shall be in accordance with 51.19(d) of this chapter.

(e) No later than May 31, 1974, the State shall submit a detailed program to the Administrator demonstrating compliance with paragraph (c) of this section. The program description shall include the following:

(1) The administrative process to be used.

(2) The funding requirements, including a statement from the Governor or State Treasurer or their respective designees identifying the source and amount of funds for the program.

(3) A description of the methods to be used to collect the data.

(4) An agency or agencies responsible for conducting, overseeing, and maintaining the monitoring program.

(f) All data obtained by the monitoring program shall be included in the quarterly report submitted to the Administrator by the State, as required at 51.7 of this chapter. The first quarterly report shall cover the period January 1 - March 31, 1975.

(g) The Commonwealth of Massachusetts and the City of Springfield shall report to the Administrator semiannually beginning May 15, 1974, the average daily VMT levels and the reduction from current levels of VMT as specified in the Technical Support Document for the Interstate Region.

(h) The VMT levels shall be based on representative traffic counts taken in Zones 1 and 2 of Springfield. The VMT reductions shall be identified for each applicable control measure designed in the State's implementation plan. Such reductions shall be reported in a format similar to that provided in Appendix M to Part 51 of this chapter, June 8, 1973.

(38 FR 30831, Nov. 7, 1973)

(14.0) 52.1156 General requirements

(a) The requirements of 51.10(e) of this chapter are not met since the legal authority to provide for public availability of emission data is inadequate.

(b) Regulation for public availability of emission data.

(1) Any person who cannot obtain emission data from the Agency responsible for making emission data available to the public, as specified in the applicable plan, concerning emissions from any source subject to emission limitations which are part of the approved plan may request that the appropriate Regional Administrator obtain and make public such data. Within 30 days after receipt of any such written request, the Regional Administrator shall require the owner or operator of any such source to submit information within 30 days on the nature and amounts of emissions from such source and any other information as may be deemed necessary by the Regional Administrator to determine whether such source is in compliance with applicable emission limitations or other control measures that are part of the applicable plan.

(2) Commencing after the initial notification by the Regional Administrator pursuant to paragraph (b) (1) of this section, the owner or operator of the source shall maintain records of the nature and amounts of emissions from such source and any other information as may be deemed necessary by the Regional Administrator to determine whether such source is in compliance with applicable emission limitations or other control measures that are part of the plan. The information recorded shall be summarized and reported to the Regional Administrator, on forms furnished by the Regional Administrator, and shall be submitted within 45 days after the end of the reporting period. Reporting periods are January 1 - June 30 and July 1 - December 31.

(3) Information recorded by the owner or operator and copies of this summarizing report submitted to the Regional Administrator shall be retained by the owner or operator for 2 years after the date on which the pertinent report is submitted.

(4) Emission data obtained from owners or operators of stationary sources will be correlated with applicable emission limitations and other control measures that are part of the applicable plan and will be available at the appropriate regional office and at other locations in the state designated by the Regional Administrator.

(39 FR 34536, Sept. 26, 1974, as amended at 40 FR 55329, Nov. 28, 1975)

52.1158 - 52.1159 (Reserved)

(13.0) 52.1160 Monitoring reports

(a) All definitions are as used in 40 CFR 51.19.

(b) This regulation is applicable in the Boston Intrastate Region.

(c) The Commonwealth shall develop and implement a program to estimate the emission reductions occurring as a result of the inspection and maintenance program required under 52.1143, and as a result of the measures for reduction in single-passenger commuter vehicle use required by 52.1161 and the measures required by 52.1163 and 51.1164. The Commonwealth shall perform such actual monitoring of emissions from vehicles, traffic counts, and air quality monitoring as shall be necessary for accuracy in making such estimates.

(d)-(h) (Reserved)

(i) The Commonwealth shall review its existing air quality monitoring program and modify it as necessary so as to provide an adequate basis for the annual review by the Administrator required under paragraph (n) of this section. At a minimum the Commonwealth shall review the number and placement of monitoring stations, the types of pollutants and meteorological parameters measured, and shall devise a comprehensive quality assurance program for all phases of the monitoring program.

(j) The Commonwealth shall review its existing traffic monitoring program and modify it as necessary so as to provide reliable information about vehicle miles traveled and traffic patterns in all critical areas, and shifts in traffic patterns and vehicle miles traveled so as to better correlate traffic data with air quality measurements. Vehicle miles traveled information shall be based on representative traffic counts taken within the Region.

(k) No later than October 1, 1975 the Governor shall submit a report to the Regional Administrator containing detailed information demonstrating compliance with paragraphs (c), (i), and (j) of this section. The information contained in this report shall include as a minimum:

(1) The administrative process to be used and the agency or agencies responsible for conducting, overseeing and maintaining the monitoring programs in paragraphs (c), (i), and (j) of this section;

(2) A description of the revised ambient air monitoring network, equipment operating and data reporting procedures, and quality assurance programs to be used to insure the routine collection of valid, reliable and representative air quality data;

(3) A description of the revised traffic monitoring program; and

(4) All other information necessary to describe the methods to be used to collect the required data.

(1) The Governor shall submit a report to the Regional Administrator annually, beginning on February 15, 1976, and containing the results of the monitoring program approved in paragraph (k) of this section. This report shall include at a minimum appropriate air quality and meteorological data, average vehicle miles traveled data, an appropriate analysis of the data base, and summary information on reductions in the use of single-passenger commuter vehicles reported to the Secretary of Transportation under 52.1161. This report shall be submitted in a form acceptable to the Regional Administrator. In addition, all air quality data will be submitted quarterly to the Administrator by the Commonwealth as required by 40 CFR 51.7.

(m) Monitoring, quality assurance programs, reporting and other procedures and methodologies required by this section shall be subject to the approval of the Regional Administrator.

(n) Upon receipt of the annual report required by paragraph (1) of this section the Regional Administrator shall analyze it and determine whether the emission reduction is in substantial conformity with the projections which formed the technical basis for the promulgation of transportation controls for the Boston Intrastate Region. If the Regional Administrator determines that the emission reductions are substantially less than or are substantially in excess of those required to meet air quality standards, the Administrator shall, after adequate public notice and public hearing, amend the regulations in such transportation control plan so as to avoid implementing a plan which is either substantially more or substantially less rigorous than that required to meet ambient air quality standards.

(o) On or before February 15, 1976, and on each succeeding February 15, thereafter the Governor shall submit to the Regional Administrator a report listing each project for expanding or improving mass transit facilities which is then under construction or is being proposed to be constructed within the Boston Intrastate Region.

(40 FR 25166, June 12, 1975)

(12.0) 52.1161 Incentives for reduction in single-passenger commuter vehicle use

(a) Definitions:

(1) "Employer" means any person or entity which employs 50 or more employees at any time during a calendar year at an employment facility located in the Boston Intrastate Region.

(2) "Educational institution" means any person or entity which has 250 or more employees and students at any time during the academic year at an educational facility offering secondary level or higher training including vocational training located in the Boston Intrastate Region.

(3) "Employee" means any person who performs work for an employer thirty-five or more hours per week and for more than twenty weeks per year for compensation and who travels to and from work by any mode of travel.

(4) "Student" means any full-time day student who does not live at the educational institution and who travels to and from classes by any mode of travel.

(5) "Affected facility" means any employment facility at which 50 or more persons are employees or any educational facility at which 250 or more persons are students and employees.

(6) "Commuter" means both an "employee" and a "student".

(7) "Single-passenger commuter vehicle" means a motor-driven vehicle with four or more wheels with capacity for a driver plus one or more passengers which is used by a commuter traveling alone to work or classes and is not customarily required to be used in the course of his employment or studies.

(8) "Base date" means the date set forth in paragraph (d) of this section as of which the base number of single-passenger commuter vehicles at a particular employment facility or educational institution must be determined.

(9) "The Secretary" means the Secretary of Transportation and Construction of the Commonwealth of Massachusetts.

(b) Commencing with the effective date of this section, each employer and educational institution (except as provided below) shall diligently and expeditiously implement and thereafter continuously maintain the following mandatory measures which are designed to achieve a goal of reducing the number of single-passenger commuter vehicles customarily commuting daily to each affected facility as if its base date by 25 percent (or as adjusted pursuant to paragraph (g) of this section):

(1) Making available to commuters any pass program offered by the Massachusetts Bay Transportation Authority, if any commuter to the facility uses the mass transit facilities of such Authority as part of his daily commuting trip, including making all administrative arrangements for commuters to purchase the pass and thereby participate in the pass program and encouraging commuters to participate by such means as publicizing the availability of the pass program and the cost advantages thereof.

(2) Posting in a conspicuous place or places of the schedules, rates and routes of every bus, subway or rail facility which serves the facility;

(3) Publicizing any applicable on-street parking restrictions including penalties for violations, which affect any areas adjacent to the facility being used for parking by commuters to the facility;

(4) Incentives for bicycle commuting such as secure locking facilities and removal of restrictive rules against bicycle usage at the facility;

(5) Negotiations with authorities in charge of rail or bus lines serving the facility for improved service to the facility; and

(6) Making available to commuters any dial-a-ride programs which serve the facility and provide mass transit service in response to telephone calls, including making whatever administrative arrangements for commuters to the facility to participate in the program and encouraging commuters to use the program by such means as publicizing the costs, routes and other features of the program, including publicizing the availability of such service.

(7) In the case of an affected employment facility with at least 250 commuters or an affected educational facility with at least 1,000 commuters, conducting a carpooling program (either alone or in cooperation with neighboring facilities) which

  (i) Matches on a regularly recurring basis (not less often than once every six months) the names, addresses, and work telephone numbers of all commuters who commute in single-passenger commuter vehicles to a facility or group of neighboring facilities so that such commuters with similar daily travel patterns are informed and aware of each other for the purpose of forming carpools, provided that commuters who state in writing that they do not wish to be matched on grounds of personal privacy may be omitted from the matching process;

(ii) Continuously publicizes the advantages of carpooling, both in terms of savings of fuel and money and any incentives in effect at the facility; and

(iii) Creates incentives for carpool information by providing persons who carpool with first call on available parking spaces or spaces which are closest to entrances to the facility.

(8) In the case of an affected employment facility with 1,000 or more employees, implementing a vanpool program which shall include the following elements:

(i) The employer shall post in a conspicuous place and regularly notify all employees of a continuously outstanding offer to acquire (by purchase, lease, or otherwise), insure, and make available to any group of at least 8 employees a van for their use as a vanpool. Such offer, a copy of which shall be sent to the Secretary at the time of the employer's first updated report, shall include:

(A) The procedures by which a group may accept the offer, including the designation of a driver.

(B) The conditions upon which the offer is contingent, including acceptance by the prospective driver of the responsibility for providing regular service, training back-up drivers, and arranging vehicle maintenance, and acceptance by each other member of the prospective group of responsibility for payment of a pro rata share of all direct costs (such as rental charge, licensing costs, insurance, tolls, fuel and repair) and indirect costs (such as depreciation and interest on borrowed funds) of the operation and maintenance of the vehicle;

(ii) The employer shall analyze and continuously publicize the advantage of vanpooling, including any resulting cost savings, convenience, and any incentives in effect at the facility. Such incentives shall include providing persons who vanpool with first call on available parking spaces or spaces which are closest to entrances to the facility;

(iii) Matching for the vanpool program should be coordinated with the carpool matching program, to facilitate the formation of vanpools.

Upon reaching such 25 percent goal, such employer or educational institution shall thereafter continue such program in such a manner as to aim at maintaining the ratio of single-passenger commuter vehicles to total commuters customarily arriving at its facility at or below the ratio referred to in paragraph (c) (4) of this section. If an employer or educational institution reaches and thereafter maintains said goal by means of less than all of such measures, it shall not be subject to a requirement to implement the remainder of such measures.

(c) On or within 10 days before the dates set forth in paragraph (d) of this section, each employer and educational institution shall submit to the Secretary a report containing the following information:

(1) The number of commuters who take any means of transportation to such facility as of its base date (and as of a date within 30 days of the date of such report);

(2) The number of single-passenger commuter vehicles customarily used daily by commuters to the facility as of the base date (and as of a date within 30 days of the date of such report);

(3) The total number of vehicles customarily used daily by commuters to the facility as of the base date (and as of a date within 30 days of the date of such report);

(4) The percentage derived by dividing three-quarters of the number of daily commuters to the facility arriving in single-passenger commuter vehicles as of the base date by the total number of commuters customarily arriving daily at the facility as of the base date;

(5) The percentage which the current number of daily commuters in single-passenger commuter vehicles is of all daily commuters to the facility; and

(6) The number of van-type vehicles with 8 or more commuters customarily arriving at the facility.

(d) The base date for all existing facilities shall be October 1, 1975, except that, where an employer or educational institution can establish to the satisfaction of the Secretary that a facility had commenced measures to reduce the number of single-passenger commuter vehicles customarily arriving daily at an earlier date, the Secretary may approve the use of such earlier date (but not earlier than November 8, 1973) as the base date for such facility. The base date for a facility established after the effective date of this section shall be the date six months after that on which it commenced regular operations, and its base date report shall be due on the next date at least six months later than is specified for any report or updated report by an existing facility. In lieu of establishing the actual number of such vehicles on such earlier date, an employer or educational institution may assume for the purposes of this section that prior to such earlier date 20 percent of all commuters to such facility who arrived by motor vehicle other than mass transit customarily arrived by means other than single-passenger commuter vehicles. An employer or educational institution shall determine whether or not it is subject to a reporting requirement and the schedule to be used in filing reports by reference to the number of commuters which it reasonably anticipates it will have coming to its facility at the date the base date report is due. The reports required under paragraph (c) of this section shall be filed accordingly to the following schedule:

(1) For a facility with 250 or more commuters, a base date report shall be due on October 15, 1975;

(2) For a facility with fewer than 250 commuters, a base date report shall be due on June 30, 1976.

(e) Each affected employer and educational institution regardless of size shall periodically update its base date report by means of a report containing (1) updated information called for in paragraphs (c) (1) - (6) of this section. (2) the net change in percentage points between the percentage reported under paragraph (c) (4) of this section as of the base date and that under paragraph (c) (5) of this section as of the date of the current report, and, (3) the net change in percentage points between the percentage reported under paragraph (c) (5) of this section in its previous report and that reported under paragraph (c) (5) of this section in its current report. The first such periodic report shall be due on the next succeeding December 31 or June 30 after the base date report, whichever is later; and each successive six months thereafter on June 30 or December 31 until June 30, 1978, and every year thereafter on June 30.

(f) (1) Each educational institution or employer submitting reports required by this section shall cause such reports to be signed as follows:

(i) In the case of a corporation, by a principal executive officer of at least the level of vice president, or his duly authorized representative, if such representative is responsible for the overall operation of the facility covered by the report;

(ii) In the case of a partnership, by a general partner;

(iii) In the case of a sole proprietorship, by the proprietor;

(iv) In the case of an unincorporated association, by the president or chairman thereof;

(v) In the case of a municipal, State, or other public facility, by either a principal executive officer, ranking elected official, or other duly authorized employee.

(2) Each educational institution or employer submitting reports required by this section shall retain for at least three years all supporting documents and data upon which each such report was based.

(3) Each report submitted pursuant to this section shall be accompanied by an adequate explanation of the methodology used to gather, compile, and analyze the data, the assumptions used in that analysis, and samples of the forms used to elicit the underlying information from commuters at the facility.

(g) Where the total number of commuters to a particular facility is changed due to fluctuation in employment or enrollment between the base date and the date of any report under paragraph (e) of this section, such fact shall be reported at the time of the submission of such report. The goal of the employer or educational institution having such a change is to attain and maintain the ratio of commuters customarily arriving at the facility daily in single-passenger commuter vehicles to total commuters indicated by paragraph (c) (4) of this section.

(h) If an employer or educational institution does not meet and thereafter at all times maintain the reduction specified under paragraph (b) of this section, in connection with each report under paragraph (e) of this section, it shall, upon written notification of the Secretary or the Regional Administrator, submit a complete description of all measures which it has applied to achieve and maintain such reduction. In addition, it shall submit a description of any remedial actions which it intends to take to meet the requirements of paragraph (b) of this section.

(i) The Secretary shall report to the Regional Administrator any person who fails to comply with this section and shall, upon request by the Regional Administrator, forward copies of all reports, correspondence and other documents pertaining to such instance of noncompliance together with a description of any enforcement action taken by the Commonwealth in connection with the matter.

(j) If an employer or educational institution in good faith diligently and expeditiously implements and thereafter continuously maintains those measures set forth in paragraphs (b) (1) through (b) (8) of this section as are applicable to it, it shall not be subject to any enforcement action by the Secretary or Administrator even though it may fail to achieve the 25 percent goal referred to in paragraph (b) of this section.

(k) Within 30 days after the receipt of the periodic reports required under paragraph (e) the Secretary shall submit to the Regional Administrator a summary of the information contained in such reports, including (1) a list of the names and addresses of all employers and educational institutions who have not as of the date of such report submitted the required report, (2) a list of all employers and educational institutions in the order of the percentage reduction achieved between the base date and the date of the required report and (3) the total reduction between the respective base dates and the date of the required reports in the number of single-passenger automobiles customarily used to arrive at all facilities for which reports were filed.

(40 FR 25166, June 12, 1975)

Note: With the exception of paragraphs (c) and (d), the provisions of 52.1161 were suspended indefinitely at 40 FR 25161, June 12, 1975.

(12.0) 52.1162 Regulation for bicycle use

(a) Definitions:

(1) "Bicycle" means a two-wheel non-motor-powered vehicle.

(2) "Bike path" means a route for the exclusive use of bicycles separated by grade or other physical barrier from motor traffic.

(3) "Bike lane" means a street lane restricted to bicycles and so designated by means of painted lanes, pavement coloring or other appropriate markings. A "peak hour" bike lane means a bike lane effective only during times of heaviest auto commuter traffic.

(4) "Bike route" means a route in which bicycles share road space with motorized vehicles.

(5) "Bikeway" means bike paths, bike lanes and bike routes.

(6) "Bicycle parking facility" means any facility for the temporary storage of bicycles which allows the frame and both wheels of the bicycle to be locked so as to minimize the risk of theft and vandalism.

(7) "Parking facility" means a lot, garage, building, or portion thereof in or of which motor vehicles are temporarily parked.

(8) "Parking space" means the area allocated by a parking facility for the temporary storage of one automobile.

(9) "MBTA" means the Massachusetts Bay Transportation Authority.

(b) Application. This section shall be applicable in the Boston Intrastate Region.

(c) Study. The Commonwealth, according to the schedule set forth in paragraph (d) of this section, shall conduct a comprehensive study of, and in that study recommend, the establishment of permanent bikeways and related facilities within the area described in paragraph (b) of this section. The study shall consider or include at least the following elements:

(1) The physical design for bikeways, intersections involving bikeways, and means of bicycle link-ups with other modes of transportation;

(2) The location of bikeways, including ascertaining high accident or pollution areas and developing means of avoiding or ameliorating those situations as well as means of providing intersection safety generally;

(3) The location of bicycle parking facilities, including bus stops;

(4) The rules of the road for bicyclists, and to the extent that present rules must be modified because of bikeways, new rules of the road for motorists. Also the feasibility of mandatory adult bicycle registration to minimize theft and increase recovery of stolen bicycles;

(5) Bicycle safety education for bicyclists, motorists, children, students, street maintenance personnel and policemen, including requiring bicycle safety principles and safe street riding skills to be taught in high school automobile driver's education programs;

(6) Methods for publicizing bicycles or bicycles plus mass transit as alternatives to automobile transportation, including the preparation, perhaps in conjunction with bicentennial efforts, of a master Boston area transit map, indicating the kind, extent and location of bicycle facilities, public baths, showers, toilet facilities, water fountains, as well as routes and stops for MBTA, common carriers and private bus lines, such map to be distributed by the Registry of Motor Vehicles with each automobile new registration and automobile registration renewal;

(7) Requiring or providing incentives for common carriers and mass transit carriers, especially the Blue Line of the MBTA, to provide bicycle parking facilities at their respective terminals and stations and bicycle carrying facilities on their respective vehicles;

(8) The creation of roadway zones in which all vehicles, except mass transit, emergency and service vehicles, and bicycles, would be excluded;

(9) Requiring or providing incentives for office buildings and employers to install and to provide free shower and locker facilities for cyclists;

(10) A bicycle user and potential user survey, which shall at a minimum determine:

   (i) For present bicycle riders, the origin, destination, frequency, travel time, distance and purpose of bicycle trips;

   (ii) In high density employment areas, the present modes of transportation of employees and the potential modes of transportation, including the numbers of employees who would use a bicycle for a significant portion of their commuting transportation were suitable facilities available to them. This section of the study shall seek to ascertain the size of the working population that would move from automobiles to mass transit and bicycles or bicycles alone as a significant form of transportation. It shall also seek to ascertain what bicycle facilities or mix thereof would produce the greatest conversion from auto use;

(11) The special problems related to the design and incorporation in the bikeway facilities described in paragraph (f) of this section of feeder bikeways to bridges, on-bridge bikeways, feeder bikeways to MBTA and railroad stations, feeder bikeways to fringe parking areas, and bicycle passage through rotaries and squares;

(12) The conversion of railroad beds, power lines, flood control channels or similar corridors to bikepaths;

(13) Removing barriers to employees bringing their bicycles into their offices;

(14) Removal or alteration of drain grates with bars so placed as to catch bicycle wheels;

(15) Bicycle rentals at appropriate locations; and

(16) The feasibility of constructing bikeways along at least each of the corridors set forth in paragraph (g) of this section.

In conducting the study, opportunity shall be given for public comments and suggestions. Input shall also be solicited from state, regional and local planning staffs, state, regional and local agencies, bicycle organizations and other interested groups and be related to comprehensive transportation planning for the area designated in paragraph (b) of this section. The study shall, using as a goal a minimum of 180 miles of bikeways, examine as large a network of facilities as is practicable within the area described in paragraph (b) of this section and shall recommend physical designs for said facilities. The study shall also propose a compliance schedule for establishing any recommended permanent bicycle facilities.

(d) The Commonwealth of Massachusetts shall submit to the Regional Administrator no later than October 1, 1975, a detailed compliance schedule showing the steps that will be taken to carry out the study required by paragraph (c) of this section. The compliance schedule shall at a minimum include:

(1) Designation of the agency responsible for conducting the study;

(2) A date for initiation of the study, which date shall be no later than October 1, 1975; and

(3) A date for completion of the study, and submittal thereof to the Administrator, which date shall be no later than June 30, 1976.

(e) On or before September 1, 1976, the Administrator shall publish in the FEDERAL REGISTER his response to the study required by paragraph (c) of this section, and shall, in that response, either approve the facility location and designs and other requirements as well as the proposed compliance schedule for permanent facilities recommended in the study, or shall designate alternative and/or additional facility locations and designs and other requirements as well as modify the proposed compliance schedule for permanent facilities. The Administrator may provide, if he deems it necessary, for a public comment period prior to the effective date of his response.

(f) Permanent Bicycle Facilities. At the conclusion of the study required by paragraph (c) of this section and the Administrator's response thereto, the Commonwealth shall, together with the municipalities and other authorities having jurisdiction over affected roadways and areas establish permanent bicycle facilities as required by the Administrator's response to the study.

(g) The potential bikeway corridors to be studied pursuant to paragraph (c) (16) are as follows:

(1) Central Square, Cambridge to Boston University;

(2) Harvard Square, Cambridge to Union Square, Allston;

(3) Union Square, Somerville to Central Square, Cambridge;

(4) Union Square, Allston to Government Center;

(5) Harvard Square, Cambridge to Government Center;

(6) Brookline Village to Government Center;

(7) Boston University to Longwood Avenue Hospital Zone;

(8) Egleston Square to Government Center;

(9) Columbus Park to Boston Common;

(10) L Street Beach to Government Center;

(11) Powder House Circle, Somerville to Harvard Square;

(12) Everett to Government Center;

(13) Porter Square, Cambridge to Columbus Park, Boston;

(14) Cleveland Circle to Government Center;

(15) Porter Square, Cambridge to Government Center;

(16) Harvard Square, Cambridge to Boston City Hospital; and

(17) Charlestown, Longfellow, Harvard, Boston University, River Street, Western Avenue, Anderson, Summer Street, and Broadway Bridges.

(h) The MBTA shall provide bicycle parking facilities at each major MBTA station adequate to meet the needs of MBTA riders within the area designated in paragraph (b) of this section. Said parking facilities shall at a minimum be located at:

(1) All stations of the Riverside portion of the Green Line;

(2) Reasonably spaced stops on other portions of the Green Line;

(3) All stations of the Red, Orange, and Blue Lines; and shall have spaces for at least six bicycles per station, except for facilities at terminal stations which shall have spaces for at least 24 bicycles.

(i) The Commonwealth shall provide for advertisement of bikeways and bicycle parking facilities in use within the area designated in paragraph (b) of this section to potential users by means of media advertisement, the distribution and posting of bikeway maps and bike safety information, as well as for a program of bicycle safety education including the motor vehicle operators license examination and public service advertisement.

(40 FR 25168, June 12, 1975)

(12.0) 52.1163 Additional control measures for East Boston

(a) On or before December 31, 1975, the Governor, the Mayor of the City of Boston, the Chairman of the Massachusetts Bay Transportation Authority, the Chairman of the Massachusetts Turnpike Authority and the Chairman of the Massachusetts Port Authority ("Massport") shall each submit to the Regional Administrator a study or studies of various alternative strategies to minimize the number of vehicle trips to and from Logan International Airport ("Logan Airport") and to reduce the amount of carbon monoxide in the vicinity of the Callahan and Sumner Tunnels to a level consistent with the national primary ambient air quality standards. These studies may be combined into one or more joint studies. These studies shall contain recommendations for control measures to be implemented prior to May 31, 1977. Measures to be studied shall include, but need not be limited to, the following:

(1) Incentives and programs for reductions in the use of single-passenger vehicles through the Callahan and Sumner Tunnels;

(2) Alterations in traffic patterns in the tunnel area;

(3) Use of exclusive lanes for buses, carpools, taxis and limousines during peak travel hours;

(4) Reduction of parking spaces at Logan Airport and increased parking charges at remaining spaces;

(5) Construction of satellite terminal facilities for Logan Airport;

(6) Use of alternate modes of transportation for trips to and from Logan Airport, and establishment of facilities at Logan Airport to accommodate such modes;

(7) Improved transit service between the Blue Line subway stop and airline terminals at Logan Airport; and

(8) Any other measures which would be likely to contribute to achieving the required reductions.

(b) Massport shall monitor the number of vehicles entering and leaving Logan Airport so as to provide the Secretary of Transportation for the Commonwealth (the "Secretary") with reports on a semi-annual basis, beginning on January 30, 1976, showing total vehicle trips per day for the six-month period ending on the previous December 31 or June 30, presented and tabulated in a manner prescribed by the Secretary.

(c) Massport shall, on or before June 30, 1976, prepare and submit to the Secretary draft legislation which, if enacted into law, would alleviate local licensing problems of bus and limousine companies in order to facilitate increased and improved bus and limousine service for travelers using Logan Airport.

(d) Massport shall negotiate with the Massachusetts Bay Transportation Authority to increase the convenience of the mass transit services currently available to travelers to Logan Airport.

(e) Massport shall, on or before June 30, 1976, establish and maintain a program (which shall include the enclosure of this information in tickets or folders mailed by airlines using Logan Airport) to publicize the advantages in costs and convenience of the use of mass transit or other available transportation services by travelers using the airport, and making known to such persons the schedules, routes, connections, and other information necessary for them to conveniently use mass transit and such other services.

(f) Massport shall, on or before October 15, 1975, establish a carpool program at Logan Airport, which shall include the elements specified in (A) - (C) of paragraph (b) (7) of 52.1161. For the purpose of applying the requirements of 52.1161 to the present paragraph:

(1) The definitions in 52.1161 shall apply;

(2) Each employer with any employment facility at Logan Airport shall cooperate with Massport in the development and implementation of the program;

(3) Any such employer (including Massport) may fulfill its obligations under paragraph (b) (7) of 52.1161 by fully cooperating with and participating in the Logan Airport carpool program (including bearing its proportional share of the program's cost); and

(g) Massport shall, on or before October 15, 1975, implement a program of systematic dissemination to employers and employees at Logan Airport of information regarding the Massachusetts Bay Transportation Authority pass program, bus and train schedules and rates, park-and-ride facilities, and other transportation programs and services available to employees at Logan Airport.

(h) Massport shall, or or before January 1, 1976, implement and maintain a program to allow all employees at Logan Airport, regardless of the size of the particular employment facility at which they work, to participate in any available pass program made available by the Massachusetts Bay Transportation Authority, including the use of Massport as a central clearinghouse for the purpose of aggregating employees and for fiscal management of such pass program.

(40 FR 25169, June 12, 1975)

(12.0) 52.1164 Localized high concentrations - carbon monoxide

(a) Not later than October 1, 1975, the Commonwealth shall have developed and have begun to implement a program to identify urban and suburban core areas and roadway/intersection complexes within the Boston Intrastate Region which violate the national ambient air quality standards for carbon monoxide. Once such localized areas have been identified, the Commonwealth, in cooperation with the affected local municipalities, shall develop and implement appropriate control strategies to insure that such air quality standards will be achieved at such areas. Plans shall be developed to include provisions for the entire municipality in order to insure that the implemented strategies will not create carbon monoxide violations elsewhere in the vicinity after the measures have been applied.

(b) To accomplish the requirements of paragraph (a) of this section, the Commonwealth shall do the following:

(1) Identify areas of potentially high carbon monoxide concentrations by reviewing all available traffic data, physical site data and air quality and meteorological data for all major intersections and roadway complexes within the Region. The Regional Administrator will provide general guidance on area designations to assist in the initial identification process.

(2) Areas identified under paragraph (b) (1) of this section shall be studied in further detail, including meteorological modeling, traffic flow monitoring, air quality monitoring and other measures necessary to accurately quantify the extent and actual levels of carbon monoxide in the area. A report containing the results of these analyses and identifying such areas shall be submitted to the Regional Administrator no later than March 1, 1976.

(3) If, after the completion of actions required by paragraph (b) (2) of this section, an area shows or is predicted to have violations of the carbon monoxide standard, the Commonwealth, in cooperation with the affected municipality, shall submit a plan to the Regional Administrator containing measures to regulate traffic and parking so as to reduce carbon monoxide emissions to achieve air quality standards in the area. Such plan shall include: the name of the agency responsible for implementing the plan, all technical data and analyses supporting the conclusions of the plan, all control strategies adopted as part of the plan, and other such information relating to the proposed program as may be required by the Regional Administrator. The Regional Administrator shall provide general guidance on applicable control strategies and reporting formats to assist in plan development and submittal. Such a plan shall be submitted for each municipality which contains one or more identified areas no later than October 1, 1975 for Waltham and October 1, 1976, for other areas.

(4) All measures called for in the plan submitted under paragraph (b) (3) of this section shall be subject to the approval of the Regional Administrator and shall be implemented by May 31, 1977.

(c) The Commonwealth shall annually review the effectiveness of the control strategies developed pursuant to this section and modify them as necessary to insure that such carbon monoxide standards will be attained and maintained. The results of this review and any changes in the measures which the Commonwealth recommends as a result thereof shall be reported to the Regional Administrator annually as required under 52.1160.

(d) Prior to submitting any plan to the Regional Administrator under paragraph (b) (3), the Commonwealth shall give prominent public notice to the general recommendations of such plan, shall make such plan available to the public for at least 30 days and permit any affected public agency or member of the public to comment in writing on such plan. The Commonwealth shall give the Regional Administrator timely notice of any public hearing to be held on such plan and shall make all comments received available to the Regional Administrator for inspection and copying.

(40 FR 25170, June 12, 1975)

(17.0) 52.1165 Prevention of Significant Deterioration

(b) Definitions. For the purposes of this section:

(1) "Facility" means an identifiable piece of process equipment. A stationary source is composed of one or more pollutant-emitting facilities.

(2) The phrase "Administrator" means the Administrator of the Environmental Protection Agency or his designated representative.

(3) The phrase "Federal Land Manager" means the head, or his designated representative, of any Department or Agency of the Federal Government which administers federally-owned land, including public domain lands.

(4) The phrase "Indian Reservation" means any federally-recognized reservation established by Treaty, Agreement, Executive Order, or Act of Congress.

(5) The phrase "Indian Governing Body" means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.

(6) "Construction" means fabrication, erection or installation of a stationary source.

(7) "Commenced" means that an owner or operator has undertaken a continuous program of construction or modification or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.

(c) Area designation and deterioration increment

(1) The provisions of this paragraph have been incorporated by reference into the applicable implementation plans for various States, as provided in Subparts B through DDD of this part. Where this paragraph is so incorporated, the provisions shall also be applicable to all lands owned by the Federal Government and Indian Reservations located in such State. The provisions of this paragraph do not apply in those counties or other functionally equivalent areas that pervasively exceeded any national ambient air quality standards during 1974 for sulfur dioxide or particulate matter and then only with respect to such pollutants. States may notify the Administrator at any time of those areas which exceeded the national standards during 1974 and therefore are exempt from the requirements of this paragraph.

(2) (i) For purposes of this paragraph, areas designated as Class I or II shall be limited to the following increases in pollutant concentration occurring since January 1, 1975:

Area Designations

Pollutant	Class I (ug/m^3)	Class II (ug/m^3)
Particulate matter:		
Annual geometric mean	5	10
24-hr maximum	10	30
Sulfur dioxide:		
Annual arithmetic mean	2	15
24-hr maximum	5	100
3-hr maximum	25	700

(ii) For purposes of this paragraph, areas designated as Class III shall be limited to concentrations of particulate matter and sulfur dioxide no greater than the national ambient air quality standards.

(iii) The air quality impact of sources granted approval to construct or modify prior to January 1, 1975 (pursuant to the approved new source review procedures in the plan) but not yet operating prior to January 1, 1975, shall not be counted against the air quality increments specified in paragraph (c) (2) (i) of this section.

(3) (i) All areas are designated Class II as of the effective date of this paragraph. Redesignation may be proposed by the respective States, Federal Land Manager, or Indian Governing Bodies, as provided below, subject to approval by the Administrator.

(ii) The State may submit to the Administrator a proposal to redesignate areas of the State Class I, Class II, or Class III, provided that:

(a) At least one public hearing is held in or near the area affected and this public hearing is held in accordance with procedures established in 51.4 of this chapter, and

(b) Other States, Indian Governing Bodies, and Federal Land Managers whose lands may be affected by the proposed redesignation are notified at least 30 days prior to the public hearing, and

(c) A discussion of the reasons for the proposed redesignation is available for public inspection at least 30 days prior to the hearing and the notice announcing the hearing contains appropriate notification of the availability of such discussion, and

(d) The proposed redesignation is based on the record of the State's hearing, which must reflect the basis for the proposed redesignation, including consideration of (1) growth anticipated in the area, (2) the social, environmental, and economic effects of such redesignation upon the area being proposed for redesignation and upon other areas and States, and (3) any impacts of such proposed redesignation upon regional or national interests.

(e) The redesignation is proposed after consultation with the elected leadership of local and other substate general purpose governments in the area covered by the proposed redesignation.

(iii) Except as provided in paragraph (c) (3) (iv) of this section, a State in which lands owned by the Federal Government are located may submit to the Administrator a proposal to redesignate such lands Class I, Class II, or Class III in accordance with subdivision (ii) of this subparagraph provided that:

(a) The redesignation is consistent with adjacent State and privately owned land, and

(b) Such redesignation is proposed after consultation with the Federal Land Manager.

(iv) Notwithstanding subdivision (iii) of this subparagraph, the Federal Land Manager may submit to the Administrator a proposal to redesignate any Federal lands to a more restrictive designation than would otherwise be applicable provided that:

(a) The Federal Land Manager follows procedures equivalent to those required of States under paragraph (c) (3) (ii) and,

(b) Such redesignation is proposed after consultation with the State(s) in which the Federal Land is located or which border the Federal Land.

(v) Nothing in this section is intended to convey authority to the States over Indian Reservations where States have not assumed such authority under other laws nor is it intended to deny jurisdiction which States have assumed under other laws. Where a State has not assumed jurisdiction over an Indian Reservation the appropriate Indian Governing Body may submit to the Administrator a proposal to redesignate areas Class I, Class II, or Class III, provided that:

(a) The Indian Governing Body follows procedures equivalent to those required of States under paragraph (c) (3) (ii) and,

(b) Such redesignation is proposed after consultation with the State(s) in which the Indian Reservation is located or which border the Indian Reservation and, for those lands held in trust, with the approval of the Secretary of the Interior.

(vi) The Administrator shall approve, within 90 days, any redesignation proposed pursuant to this subparagraph as follows:

(a) Any redesignation proposed pursuant to subdivisions (ii) and (iii) of this subparagraph shall be approved unless the Administrator determines (1) that the requirements of subdivisions (ii) and (iii) of this subparagraph have not been complied with, (2) that the State has arbitrarily and capriciously disregarded relevant considerations set forth in subparagraph (3) (ii) (d) of this paragraph, or (3) that the State has not requested and received delegation of responsibility for carrying out the new source review requirements of paragraphs (d) and (e) of this section.

(b) Any redesignation proposed pursuant to subdivision (iv) of this subparagraph shall be approved unless he determines (1) that the requirements of subdivision (iv) of this subparagraph have not been complied with, or (2) that the Federal Land Manager has arbitrarily and capriciously disregarded relevant considerations set forth in subparagraph (3) (ii) (d) of this paragraph.

(c) Any redesignation submitted pursuant to subdivision (v) of this subparagraph shall be approved unless he determines (1) that the requirements of subdivision (v) of this subparagraph have not been complied with, or (2) that the Indian Governing Body has arbitrarily and capriciously disregarded relevant considerations set forth in subparagraph (3) (ii) (d) of this paragraph.

(d) Any redesignation proposed pursuant to this paragraph shall be approved only after the Administrator has solicited written comments from affected Federal agencies and Indian Governing Bodies and from the public on the proposal.

(e) Any proposed redesignation protested to the proposing State, Indian Governing Body, or Federal Land Manager and to the Administrator by another State or Indian Governing Body because of the effects upon such protesting State or Indian Reservation shall be approved by the Administrator only if he determines that in his judgment the redesignation appropriately balances considerations of growth anticipated in the area proposed to be redesignated; the social, environmental and economic effects of such redesignation upon the area being redesignated and upon other areas and States; and any impacts upon regional or national interests.

(f) The requirements of paragraph (c) (3) (vi) (a) (3) that a State request and receive delegation of the new source review requirements of this section as a condition to approval of a proposed redesignation, shall include as a minimum receiving the administrative and technical functions of the new source review. The Administrator will carry out any required enforcement action in cases where the State does not have adequate legal authority to initiate such actions. The Administrator may waive the requirements of paragraph (c) (3) (vi) (a) (3) if the State Attorney-General has determined that the State cannot accept delegation of the administrative/technical functions.

(vii) If the Administrator disapproves any proposed area designation under this subparagraph, the State, Federal Land Manager or Indian Governing Body, as appropriate, may resubmit the proposal after correcting the deficiencies noted by the Administrator or reconsidering any area designation determined by the Administrator to be arbitrary and capricious.

(d) Review of new sources

(1) The provisions of this paragraph have been incorporated by reference into the applicable implementation plans for various States, as provided in Subparts B through DDD of this part. Where this paragraph is so incorporated, the requirements of this paragraph apply to any new or modified stationary source of the type identified below which has not commenced construction or modification prior to June 1, 1975 except as specifically provided below. A

source which is modified, but does not increase the amount of sulfur oxides or particulate matter emitted, or is modified to utilize an alternative fuel, or higher sulfur content fuel, shall not be subject to this paragraph.

(i) Fossil-Fuel Steam Electric Plants of more than 1000 million B.T.U. per hour heat input.

(ii) Coal Cleaning Plants.

(iii) Kraft Pulp Mills.

(iv) Portland Cement Plants.

(v) Primary Zinc Smelters.

(vi) Iron and Steel Mills.

(vii) Primary Aluminum Ore Reduction Plants.

(viii) Primary Copper Smelters.

(ix) Municipal Incinerators capable of charging more than 250 tons of refuse per 24 hour day.

(x) Sulfuric Acid Plants.

(xi) Petroleum Refineries.

(xii) Lime Plants.

(xiii) Phosphate Rock Processing Plants.

(xiv) By-Product Coke Oven Batteries.

(xv) Sulfur Recovery Plants.

(xvi) Carbon Black Plants (furnace process).

(xvii) Primary Lead Smelters.

(xviii) Fuel Conversion Plants.

(xix) Ferroalloy production facilities commencing construction after October 5, 1975.

(2) No owner or operator shall commence construction or modification of a source subject to this paragraph unless the Administrator determines that, on the basis of information submitted pursuant to subparagraph (3) of this paragraph:

(i) The effect on air quality concentration of the source or modified source, in conjunction with the effects of growth and reduction in emissions after January 1, 1975, of other sources in the area affected by the proposed source, will not violate the air quality increments applicable in the area where the source will be located nor the air quality increments applicable in any other areas. The analysis of emissions growth and reduction after January 1, 1975, of other sources in the areas affected by the proposed source shall include all new and modified sources granted approval to construct pursuant to this paragraph; reduction in emissions from existing sources which contributed to air quality during all or part of 1974; and general commercial, residential, industrial, and other sources of emissions growth not exempted by paragraph (c) (2) (111) of this section which has occurred since January 1, 1975.

(ii) The new or modified source will meet an emission limit, to be specified by the Administrator as a condition to approval, which represents that level of emission reduction which would be achieved by the application of best available control technology, as defined in 52.01 (f), for particulate matter and sulfur dioxide. If the Administrator determines that technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of an emission standard infeasible, he may instead prescribe a design or equipment standard requiring the application of best available control technology. Such standard shall to the degree possible set forth the emission reductions achievable by implementation of such design or equipment, and shall provide for compliance by means which achieve equivalent results.

(iii) With respect to modified sources, the requirements of subparagraph (2) (ii) of this paragraph shall be applicable only to the facility or facilities from which emissions are increased.

(3) In making the determinations required by paragraph (d) (2) of this section, the Administrator shall, as a minimum, require the owner or operator of the source subject to this paragraph to submit: site information, plans, description, specifications, and drawings showing the design of the source; information necessary to determine the impact that the construction or modification will have on sulfur dioxide and particulate matter air quality levels; and any other information necessary to determine that best available control technology will be applied. Upon request of the Administrator, the owner or operator of the source shall provide information on the nature and extent of general commercial, residential, industrial, and other growth which has occurred in the area affected by the source's emissions (such area to be specified by the

Administrator) since January 1, 1975.

(4) (i) Where a new or modified source is located on Federal Lands, such source shall be subject to the procedures set forth in paragraphs (d) and (e) of this section. Such procedures shall be in addition to applicable procedures conducted by the Federal Land Manager for administration and protection of the affected Federal Lands. Where feasible, the Administrator will coordinate his review and hearings with the Federal Land Manager to avoid duplicate administrative procedures.

(ii) New or modified sources which are located on Indian Reservations shall be subject to procedures set forth in paragraphs (d) and (e) of this section. Such procedures shall be administered by the Administrator in cooperation with the Secretary of the Interior with respect to lands over which the State has not assumed jurisdiction under other laws.

(iii) Whenever any new or modified source is subject to action by a Federal Agency which might necessitate preparation of an environmental impact statement pursuant to the National Environmental Policy Act (42 U.S.C. 4321), review by the Administrator conducted pursuant to this paragraph shall be coordinated with the broad environmental reviews under that Act, to the maximum extent feasible and reasonable.

(5) Where an owner or operator has applied for permission to construct or modify pursuant to this paragraph and the proposed source would be located in an area which has been proposed for redesignation to a more stringent class (or the State, Indian Governing Body, or Federal Land Manager has announced such consideration), approval shall not be granted until the Administrator has acted on the proposed redesignation.

(e) Procedures for public participation

(1) (i) Within 20 days after receipt of an application to construct, or any addition to such application, the Administrator shall advise the owner or operator of any deficiency in the information submitted in support of the application. In the event of such a deficiency, the date of receipt of the application for the purpose of paragraph (e) (1) (ii) of this section shall be the date on which all required information is received by the Administrator.

(ii) Within 30 days after receipt of a complete application, the Administrator shall:

(a) Make a preliminary determination whether the source should be approved, approved with conditions, or disapproved.

(b) Make available in at least one location in each region in which the proposed source would be constructed, a copy of all materials submitted by the owner or operator, a copy of the Administrator's preliminary determination and a copy or summary of other materials, if any, considered by the Administrator in making his preliminary determination; and

(c) Notify the public, by prominent advertisement in newspaper of general circulation in each region in which the proposed source would be constructed, of the opportunity for written public comment on the information submitted by the owner or operator and the Administrator's preliminary determination on the approvability of the source.

(iii) A copy of the notice required pursuant to this subparagraph shall be sent to the applicant and to officials and agencies having cognizance over the locations where the source will be situated as follows: State and local air pollution control agencies, the chief executive of the city and county; any comprehensive regional land use planning agency; and any State, Federal Land Manager or Indian Governing Body whose lands will be significantly affected by the source's emissions.

(iv) Public comments submitted in writing within 30 days after the date such information is made available shall be considered by the Administrator in making his final decision on the application. No later than 10 days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The Administrator shall consider the applicant's response in making his final decision. All comments shall be made available for public inspection in at least one location in the region in which the source would be located.

(v) The Administrator shall take final action on an application within 30 days after the close of the public comment period. The Administrator shall notify the applicant in writing of his approval, conditional approval, or denial of the application, and shall set forth his reasons for conditional approval or denial. Such notification shall be made available for public inspection in at least one location in the region in which the source would be located.

(vi) The Administrator may extend each of the time periods specified in paragraph (e) (1) (ii), (iv), or (v) of this section by no more than 30 days or such other period as agreed to by the applicant and the Administrator.

(2) Any owner or operator who constructs, modifies, or operates a stationary source not in accordance with the application, as approved and conditioned by the Administrator, or any owner or operator of a stationary source subject to this paragraph who commences construction or modification after June 1, 1975, without applying for and receiving approval hereunder, shall be subject to enforcement action under section 113 of the Act.

(3) Approval to construct or modify shall become invalid if construction or expansion is not commenced within 18 months after receipt of such approval or if construction is discontinued for a period of 18 months or more. The Administrator may extend such time period upon a satisfactory showing that an extension is justified.

(4) Approval to construct or modify shall not relieve any owner or operator of the responsibility to comply with the control strategy and all local, State, and Federal regulations which are part of the applicable State Implementation Plan.

(f) Delegation of authority

(1) The Administrator shall have the authority to delegate responsibility for implementing the procedures for conducting source review pursuant to paragraphs (d) and (e), in accordance with subparagraphs (2), (3), and (4) of this paragraph.

(2) Where the Administrator delegates the responsibility for implementing the procedures for conducting source review pursuant to this section to any Agency, other than a regional office of the Environmental Protection Agency, the following provisions shall apply:

(i) Where the agency designated is not an air pollution control agency, such agency shall consult with the appropriate State and local air pollution control agency prior to making any determination required by paragraph (d) of this section. Similarly, where the agency designated does not have continuing responsibilities for managing land use, such agency shall consult with the appropriate State and local agency which is primarily responsible for managing land use prior to making any determination required by paragraph (d) of this section.

(ii) A copy of the notice pursuant to paragraph (e) (1) (ii) (c) of this section shall be sent to the Administrator through the appropriate regional office.

(3) In accordance with Executive Order 11752, the Administrator's authority for implementing the procedures for conducting source review pursuant to this section shall not be delegated, other than to a regional office of the Environmental Protection Agency, for new or modified sources which are owned or operated by the Federal government or for new or modified sources located on Federal lands; except that, with respect to the latter category, where new or modified sources are constructed or operated on Federal lands pursuant to leasing or other Federal agreements, the Federal land Manager may at his discretion, to the extent permissible under applicable statutes and regulations, require the lessee or permittee to be subject to a designated State or local agency's procedures developed pursuant to paragraphs (d) and (e) of this section.

(4) The Administrator's authority for implementing the procedures for conducting source review pursuant to this section shall not be redelegated, other than to a regional office of the Environmental Protection Agency, for new or modified sources which are located on Indian reservations except where the State has assumed jurisdiction over such land under other laws, in which case the Administrator may delegate his authority to the States in accordance with subparagraphs (2), (3), and (4) of this paragraph.

(39 FR 42514, Dec. 5, 1974; 40 FR 2802, Jan. 16, 1975, as amended at 40 FR 24535, June 9, 1975; 40 FR 25005, June 12, 2975; 40 FR 42012, Sept. 10, 1975)